

Philosophy in a World of Injustice

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Abstract

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My dissertation is about the moral epistemology of a theory of injustice. The orthodox paradigm maintains that we require an ideal theory of a perfectly just society in order to justify the principles for dealing with injustice. In contrast, I show that a theory of injustice is not dependent on ideal theory and develop a pragmatic realist alternative by critically engaging with the work of Elizabeth Anderson. My approach is pragmatist in stressing the importance of testing our principles against actual experience of their practical consequences, but it is realist in holding that justification must take into account the unjust motivations and actions of other agents. Whether racial integration is an imperative of justice depends on the extent to which unjust opposition to it means that conflicting courses of action have a better chance of mitigating racial injustice.

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Introduction

Recently, many social and political philosophers have expressed doubts about an “ideal theory” of a perfectly just society and whether it is useful or necessary for identifying how we should address existing injustices. Dissatisfied with the apparent irrelevance of ideal theory for urgent real-world problems, such as racial inequality, global poverty, or state oppression, some philosophers have sought to find ways of constructing a theory of justice that would more effectively illuminate the nature of current injustices and tell us how to respond to them.¹ Conversely, others have argued that ideal theory is helpful and even essential for knowing how to remedy unjust social arrangements.² Despite their differences, however, all these philosophers can be understood as sharing a fundamental concern, namely, how to develop a “nonideal theory” that justifies our duties regarding how we are to deal with present injustices. In other words, they are interested in discovering a sound philosophical methodology or moral epistemology that would enable them to gain knowledge about how we should act in our unjust world.

This dissertation is about “nonideal methodology” or the moral epistemology of nonideal theory and how we are to justify requirements of justice about how we should respond to current social injustices. In particular, as I will understand it, a nonideal methodology or moral

¹ E.g. Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell Univ. Press, 2011); Amartya Sen, *The Idea of Justice* (Cambridge, Mass: Belknap Press of Harvard Univ. Press, 2011); Elizabeth Anderson, *The Imperative of Integration* (Princeton, N.J: Princeton University Press, 2013); Gerald F. Gaus, *The Tyranny of the Ideal: Justice in a Diverse Society* (Princeton: Princeton University Press, 2016).

² E.g. John Rawls, *A Theory of Justice*, Rev. ed (Cambridge, Mass: Belknap Press of Harvard University Press, 1999); Liam B. Murphy, *Moral Demands in Nonideal Theory* (Oxford: Oxford University Press, 2003); A. John Simmons, “Ideal and Nonideal Theory,” *Philosophy & Public Affairs* 38, no. 1 (2010): 5–36; Tommie Shelby, “Racial Realities and Corrective Justice: A Reply to Charles Mills,” *Critical Philosophy of Race* 1, no. 2 (2013): 145–62; Tommie Shelby, *Dark Ghettos: Injustice, Dissent, and Reform* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2016).

epistemology (a) identifies certain factors (e.g. principles, values, or facts) as necessary or significant premises for justifying some of our duties in relation to existing injustices and (b) explains why those factors are required or important. For example, in my view, the debate concerning ideal theory is about whether a theory of a just society is essential for identifying some of the premises (e.g. principles) that are needed to justify how to cope with the problems of unjust circumstances. Alternatively, we may want to know if and why people's unwillingness to comply with standards of justice is relevant for ascertaining an agent's duties of justice in nonideal theory. Although these matters may seem abstract, they can also be very practically significant because they indicate how philosophers and everyone as moral agents are to determine their duties of justice in the unjust societies and world we live in.

In this dissertation, I will show that justifying requirements of justice in nonideal theory is not dependent on ideal theory and develop a pragmatist alternative by critically engaging with the work of Elizabeth Anderson. My approach is pragmatist in stressing the importance of testing our principles against actual experience of their practical consequences, but it is also realistic in holding that moral justification must take into account the unjust behavior and motivations of other agents. In particular, I will demonstrate that whether racial integration is an imperative of justice depends on the extent to which unjust opposition to it means that conflicting courses of action have a better chance of mitigating racial injustice. My arguments will not only contribute to philosophical reflection about moral justification in nonideal theory but also better enable us to discern how we should respond to the injustices of our time.

Chapter 1 will show that we can construct a systematic nonideal theory without ideal theory. I will consider all the main justifications for the necessity of ideal theory and contend that they are unsuccessful. That is, I will argue that ideal theory is not essential for establishing (1) first

principles of justice, (2) priority rules, (3) evaluative principles for measuring overall injustice, (4) our fair burdens of sacrifice, or because we must take into account (5) the prospect of achieving a just society. Furthermore, my analysis will highlight the fact that some principles, institutions, policies, and actions may be required by justice only if other conditions are fulfilled and that these conditions may be undermined by injustice. My argument will also demonstrate that our duties of justice depend on the evidential probabilities that various courses of action will advance justice. The last two points are significant for issues beyond ideal theory and will be very important in later chapters.

Chapter 2 will examine Elizabeth Anderson's pragmatist nonideal methodology which is considered to be one of the main alternatives to the ideal theoretic approach. I will defend a reconstructed pragmatism that is centered on an experimental or empiricist moral epistemology and that better recognizes the importance of unjust motivations and actions in moral justification than Anderson's view does. The most important pragmatist method is "experiments in living" or a process or condition in which a moral view is realized such that we can obtain empirical evidence of its actual consequences and of people's moral intuitions in response to them. I will support the claims that experiments in living (a) can provide better evidence and deliver better justified judgments than *a priori* modes of reasoning, (b) that the empirical evidence they supply is necessary for justification and (c) that their evidence can be part of a sufficient justification apart from *a priori* methods, if certain epistemological conditions are met. In addition, while I will agree with Anderson that nonideal theory should be empirically realistic in that it must involve causal investigations into existing injustices and their solutions, I will reject her position that the justification of requirements of justice need not take into account the unwillingness of others to act justly. Lastly, I will respond to Tommie Shelby's objections that Anderson's pragmatism

suffers from a status quo bias and a blindspot to the unjust advantages of a social system and that it downgrades the agency of the victims of injustice.

Chapter 3 considers Anderson's argument that racial integration is necessary to correct some of the unjust effects of racial segregation in the United States and that integration is an imperative of justice. I will defend her view that residential and social integration is a corrective necessity and for the sake of argument, accept that integration could be realized through certain public policies which are feasible, morally permissible, and not too costly if particular black Americans, white Americans, and the state each perform certain actions. Nevertheless, I will contend that Anderson does not establish that any moral agent has a duty to promote integration. Conversely, I will argue that Shelby does not demonstrate that integration is not required to remedy certain racial injustices, that it is not a duty of justice, or that we should benefit black neighborhoods instead. One reason that both their arguments fail is that they do not appreciate how the unjust conduct and dispositions of other agents can make fostering their respective principles or policies infeasible, impermissible, unreasonably burdensome, or less likely to mitigate racial injustice than other courses of action in existing circumstances. These mistakes stem from serious errors in their nonideal methodologies, which discount the importance of unjust actions and motives for justifying requirements of justice. Although I will not be able to determine whether various agents have a duty to promote integration, the revitalization of black neighborhoods, or black self-segregation, I will show how these imperatives should be ascertained and where Anderson and Shelby's influential positions are inadequate.

Chapter 1: Ideal and Systematic Theory

For many philosophers, rectifying injustice is the practical motivation for constructing a theory of justice. Faced with paradigmatic wrongs, such as human trafficking, racial discrimination, genocide, easily remediable poverty, and the gross abuse of state power, we are often able to make confident judgments about their injustice and to identify courses of action that would alleviate them and bring about a more just world. Nevertheless, reflection reveals that even evident injustices have complex dimensions that require conceptual elucidation and that call for new and finer evaluative and practical responses. In addition, there are many problems for which it is difficult to discern what justice demands. It is not immediately clear, for example, how exactly a society should distribute its liberties, opportunities, and wealth. For these reasons, moral and political philosophers seek to establish, not only specific judgments, but also a systematic theory of justice that illuminates the basic concerns at stake and that justifies the general principles that determine how we should address injustice. Given the complexities of social and political life, it may be that such a theory is not only useful but essential for a deeper understanding of the problems of injustice and for more effective efforts towards their abolition.

In recent debates about nonideal methodology, one of the most significant disagreements concerns the “priority” or “dependence thesis” that we need an “ideal theory” of a perfectly just society in order to construct a more systematic nonideal theory that deals with injustice. The claim that ideal theory is necessary seems to have three primary and compelling sources: First, examining the nature of perfect justice is meant to be the only way to ascertain the most fundamental principles of justice, which are needed to adequately identify injustice, the priorities of justice, and a society’s overall justice. Second, our fair share of responsibility seems to be determined by a

completely just situation in which everyone is doing their part. Third, since we have a duty to eliminate injustice, it appears that our ultimate societal aim is to achieve a fully just society, which should affect our present course of social reform.³ If these claims are correct, then ideal theory is of immense practical importance because it would be essential for gaining significant kinds of knowledge about how to respond to contemporary injustices.

Although there are many critics of the dependence claim, some of its main justifications remain unaddressed and existing treatments do not properly or fully diagnose its errors or their broader implications.⁴ In addition, the debate suffers from serious conceptual confusions that need to be dispelled. In this chapter, I will assess the most influential claims that ideal theory is essential for establishing (1) first principles of justice, (2) priority rules (e.g. Rawls's famous lexical ordering), (3) evaluative principles for measuring overall (in)justice, (4) our fair burdens of sacrifice, and because we must take into account (5) the prospect of achieving a just society. I will contend that none of the arguments for these dependence theses show that ideal theory is essential for nonideal theory. Moreover, understanding why these dependence claims are mistaken will allow me to isolate the actual relevance of ideal theory and to develop an alternative view about how to construct a systematic nonideal theory, which treats the features of unjust circumstances as most important and is more sensitive to the conditionality of requirements of justice and to issues of moral and empirical uncertainty.

³ E.g. Rawls, *A Theory of Justice; The Law of Peoples with "The Idea of Public Reason Revisited"* (Cambridge, Mass: Harvard University Press, 1999); Murphy, *Moral Demands in Nonideal Theory*; Laura Valentini, "On the Apparent Paradox of Ideal Theory," *Journal of Political Philosophy* 17, no. 3 (2009): 332–355; Simmons, "Ideal and Nonideal Theory"; Shelby, *Dark Ghettos*.

⁴ The critical literature includes Sen, *The Idea of Justice*; Anderson, *The Imperative of Integration*; David Wiens, "Against Ideal Guidance," *The Journal of Politics* 77, no. 2 (2015): 433–46; Gaus, *The Tyranny of the Ideal*; Charles W. Mills, *Black Rights/White Wrongs: The Critique of Racial Liberalism*, Transgressing Boundaries (New York, NY: Oxford University Press, 2017).

1.1 Ideal Theory, Ideal Principles and Nonideal Theory

The concept of “ideal theory” is understood in several different ways in the literature, but I will focus on two core interpretations.⁵ The first is *strict compliance theory*, which justifies principles of justice under the assumption that “(nearly) everyone strictly complies ... with [those] principles.”⁶ The second is *realistically utopian theory*, which justifies principles of justice on the assumption that the society is a “realistic utopia” or one that is *as just* as is “achievable” in our social world, such that it “is feasible and might actually exist, if not now then at some future time under happier circumstances.”⁷ For Rawls, this means that the society is the most just that is possible or that may come to exist within the limits of scientific laws, human nature, modern social and political institutions, and the more permanent historical conditions of our time, including reasonable disagreement about the good life in liberal democracies and cultural diversity between nations.⁸

Thus, when I talk about a perfectly just, a just, or an ideal society, I mean one that is either strictly compliant or realistically utopian. Many treat strict compliance or realistic utopianism as definitive of ideal theory, but there remains significant ambiguity in the literature about how exactly these empirical conditions constitute ideal theory, which has hindered the debate and not yet been addressed. The main question is whether we identify ideal theory by the fact that it

⁵ E.g. Laura Valentini, “Ideal vs. Non-Ideal Theory: A Conceptual Map,” *Philosophy Compass* 7, no. 9 (2012): 654–664.

⁶ John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, Mass: Harvard University Press, 2001), 13.

⁷ Ideal theory also involves social arrangements larger than a domestic society (e.g. international law), but I will continue to speak about societies for convenience. Rawls, *The Law of Peoples*, 6, 12.

⁸ Rawls, 4–13.

identifies the principles for a strictly compliant or realistically utopian society in particular or by the fact that it justifies principles that may merely include these kinds of social arrangements as part of their domain of application, which may comprise a much broader range of circumstances. I will argue that we should accept the first characterization because it better expresses what is centrally at stake in the relevant disagreements. We can formulate ideal theory in this first sense as follows:

Ideal Theory: A theory (or the part of a theory) that justifies principles of justice (or facts) using an empirical premise that the relevant social arrangements are specifically (nearly) strictly compliant or realistically utopian, as opposed to being unjust or simply part of a more general set of circumstances.

This definition corresponds to a more colloquial description of ideal theory as a theory that asks what principles govern strictly compliant or realistically utopian circumstances, but it makes explicit that ideal theory essentially considers the principles for those situations *in particular* by stating that the justification of the salient principles inherently contains these specific empirical conditions among its premises. Thus, a theory is an ideal theory if and only if it includes an argument that reasons (at least implicitly) from empirical premises stating that the relevant society is specifically a strictly compliant or a realistically utopian one. It follows that if none of the arguments of a theory include those particular empirical presuppositions, it is not an ideal theory. (I will provide an example of a theory that is not an ideal theory shortly.)

Similarly, I propose that we should say that a principle is an “ideal principle” if and only if it is the conclusion of an argument that justifies principles for a perfectly just society in

particular. Ideal principles, therefore, are not to be identified by their content or even by the fact that they apply in fully just situations. For example, “everyone should be respected as a moral person” and “slavery is impermissible” are principles that should govern ideal states of affairs, but it is also possible to justify these principles for a more general set of circumstances or with only imperfectly just circumstances in view. Therefore, even though these requirements apply to a just society, they may not be ideal principles, or part of an ideal theory, since they may be outcomes of arguments that identify principles for situations that are not specifically strictly compliant or realistically utopian.

These distinctions are crucial for our topic because we need to distinguish ideal theory and ideal principles from other kinds of moral and political theory and principles that are independently available to nonideal theory and that the critics of the dependence thesis do not reject. As a contrast to ideal theory, consider the following justification for utilitarianism. The principle of utility states that the right action is the one that would maximize expected welfare. One influential argument justifies the principle of utility based on two premises that welfare is the only basic value and that our only duty is to maximize expected value.⁹ Since the principle of utility is a universally applicable moral standard, incidentally, it determines what should be done in a just society. Notice, however, that the preceding argument for the principle of utility does not contain an empirical premise of strict compliance or realistic utopianism and that it does not ascertain the principles for a perfectly just society in particular. Hence, in this case, utilitarianism and the principle of utility are not established within ideal theory.¹⁰ Furthermore, the principle of utility can be directly

⁹ Cf. Henry Sidgwick, *The Methods of Ethics* (Cambridge: Cambridge University Press, 2011).

¹⁰ All this is compatible with the possibilities that we may apply the principle of utility to perfectly just situations in particular and thereby do ideal theory and that some theories may consider whether the principle of utility is justified using strict compliance or realistic utopianism as premises in their arguments (as Rawls does) and thereby count as

applied in nonideal theory to identify the right courses of actions in terms of the maximization of expected welfare. I will examine some non-consequentialist theories later, but the general point is that there are theories and principles that do not constitute and are not dependent on ideal theory, which have significant implications for what we should do in unjust circumstances.

If someone suggests that an ideal theory is simply one that establishes (or accepts) principles that apply to a just society or a theory with any ideals or principles, then my response is that the proposed definition is too inclusive and that it would not capture the heart of the debate. For Rawls, the assumptions of strict compliance and realistic utopianism play necessary roles in the justification of his principles. The “guarantee of strict compliance” is needed so that the parties in the original position “can rely on each other to understand and to act in accordance with whatever principles are finally agreed to,” and the society must be a realistic utopia or else it will not be practically achievable.¹¹ In contrast, we have seen that these specific empirical premises are not at all essential for justifying some principles that only incidentally regulate a just society. In addition, most of the main critics of the claim that ideal theory is necessary do not reject all principles that have implications for complete justice.¹² Even more so, they do not reject all theories with moral ideals or principles of justice. Their contention is only that we do not need to find out the requirements of a perfectly just society *in particular* in order to obtain the principles that are necessary for our unjust circumstances. These broader characterizations of ideal theory,

ideal theory. The point is that the argument for utilitarianism and the principle of utility (and other theories and principles) do not necessarily involve the empirical assumptions of a just society and hence are not essentially instances of or derived from ideal theory. Rawls, *A Theory of Justice*, sec. 27.

¹¹ Rawls, 125; Rawls, *The Law of Peoples*, 6.

¹² See everyone listed in note 4, for example.

therefore, do not accurately represent what is at stake in the relevant disagreements and should be set aside.

In contrast to ideal theory, *nonideal theory* justifies principles of justice for circumstances that are less than perfectly just. I also stipulate that the salient kinds of nonideal theory are only those about *contemporary* unjust circumstances, that is, present situations or those in the not too distant future. This is to ensure that the kinds of nonideal theory we discuss are about the problems of injustice that we do or will face.

1.2 The Dependence Thesis

Another basic concern is how to characterize “the dependence thesis” itself.¹³ I propose that the following formulation is suitable for each of the more specific theses we will examine.

Dependence Thesis: Ideal theory is essential for justifying some of the principles or facts that are among the normative or empirical premises that nonideal theory needs in order to better explain or make sound judgments about how to respond to some of the problems of unjust circumstances.¹⁴

¹³ I use the term “dependence thesis” instead of the more common “priority thesis” in order to avoid confusion with what Rawls calls “priority rules.” “Priority thesis” also has unfortunate temporal connotations, which make it seem as if the main issue is where we *start* our theorizing.

¹⁴ Ultimately, this definition is to be judged by whether it captures the shared claim of the more specific theses to be discussed. Cf. “[I]deal theory ... provides ... the *only basis* for a *systematic grasp* of [the] more pressing problems [of nonideal theory].... At least, I shall assume that a deeper understanding can be gained in no other way, and that the nature and aims of a perfectly just society is the fundamental part of a theory of justice.” Rawls, *A Theory of Justice*, 8 emphasis added.

The dependence claim states a relationship between ideal theory and certain principles or facts that nonideal theory requires in order to better explain or identify how we should deal with specific problems of injustice. For any problem of injustice and principle (or fact), ideal theory is necessary for nonideal theory if and only if (1) that principle cannot be justified without ideal theory, (2) ideal theory is able to justify that principle, and (3) that principle is able to assist us in knowing how to act concerning the problem at stake. One way of putting the main idea is that ideal theory is required for the construction of a more “systematic” and “complete” nonideal theory of justice. The resulting theory is more *systematic* in the sense that it allows us to determine and to explain which judgments and principles are right in terms of more fundamental principles and facts. In addition, the theory is more *complete* in that its principles and facts would entail or help support the right judgments for a broader set of problems of injustice. Although Rawls’s theory is a central source for the dependence thesis, my interest is how to develop a systematic nonideal theory more generally. Thus, I will follow the literature in assessing the thesis as a broader methodological claim that is not confined to the substance of Rawls’s views.¹⁵

Hitherto, the primary objection to the dependence thesis has been that ideal theory is not necessary for a theory of comparative justice about which changes would advance justice from the status quo. Famously, Amartya Sen contends that we can “[make] comparative judgments about justice” without ideal theory just as understanding that “Everest is the tallest mountain in the

¹⁵ E.g. Simmons distinguishes his defense of “Rawls’s view of the nature of, and the relationship between, ideal and nonideal theory in *political philosophy*” from “the content or substance of Rawls’s ideal and nonideal theories [with which] [he] quarrel[s].” Rawls is not very explicit about his exact view of the dependence of nonideal on ideal theory. When I cite his work, I am only pointing to texts that might support specific dependence theses, which some of his prominent interpreters have expressly avowed. A. John Simmons, “Disobedience and Its Objects,” *Boston University Law Review* 90 (2010): 1817 note 62 emphasis added.

world” is not “needed ... in comparing the heights of ... Kanchenjunga and Mont Blanc.”¹⁶ Similarly, Elizabeth Anderson claims that in “normative thinking,” “[w]e recognize the existence of a problem before we have any idea of what would be best or most just ... Nor do we need to know what is ideal in order to improve. Knowledge of the better does not require knowledge of the best.”¹⁷

Some dismiss this critique on the grounds that it merely shows that *specific judgments* are justifiable apart from ideal theory, whereas the dependence claim is about supporting some *general principles* or the construction of a *theory* of justice.¹⁸ However, this is not the best interpretation of Sen, Anderson or other critics’ positions. Sen also holds that a “*systematic theory* of comparative justice does not need ... an answer to the question ‘What is a just society?’.”¹⁹ Likewise, Anderson justifies principles on the basis that their implementation has solved or promises to solve actual injustices.²⁰ Moreover, Sen and Anderson both subscribe to a broadly contractualist moral theory.²¹ Sen, for example, counts “utilitarian[,] egalitarian [and] libertarian” principles as among the “distributive principles” that might be justified in a contractualist framework.²² Evidently,

¹⁶ Amartya Sen, “What Do We Want from a Theory of Justice?,” *The Journal of Philosophy* 103, no. 5 (2006): 218, 222.

¹⁷ Anderson, *The Imperative of Integration*, 3.

¹⁸ E.g. Laura Valentini, “A Paradigm Shift in Theorizing about Justice? A Critique of Sen,” *Economics and Philosophy* 27, no. 3 (2011): 306.

¹⁹ Sen, “What Do We Want from a Theory of Justice?,” 221, 226 emphasis added.

²⁰ Anderson, *The Imperative of Integration*, secs. 1.2, 5.4.

²¹ Sen, “What Do We Want from a Theory of Justice?,” 215–16, 225; Anderson, *The Imperative of Integration*, 17; Elizabeth Anderson, “The Fundamental Disagreement between Luck Egalitarians and Relational Egalitarians,” *Canadian Journal of Philosophy* 36 (2010): 1–23; Carole Pateman and Charles W. Mills, *Contract and Domination* (Cambridge: Polity Press, 2007), chaps. 3, 4, 8.

²² Sen, “What Do We Want from a Theory of Justice?,” 224–25.

Anderson and Sen must hold that contractualism and some of the principles supported therein are not instances of ideal theory and ideal principles. Thus, to the extent that they are right, their perspectives represent *theories* of justice that can be established apart from ideal theory, not merely isolated judgments.

A different response is that, contrary to what critics claim, their theories do constitute or depend on ideal theory. For example, while Anderson contrasts her approach to “traditional Rawlsian theorizing,” in which “ideal theory is an indispensable [sic] practical guide and necessary normative foundation for nonideal theory,” Tommie Shelby thinks that actually her “contractualist approach” is “perfectly compatible with traditional [Rawlsian] nonideal theory.”²³ One of the reasons I carefully distinguish ideal theory and principles from other kinds of both is so that we can properly adjudicate this kind of disagreement and the independence of various theories from ideal theory.

Nevertheless, often critics of the dependence thesis do not directly address its chief and more specific justifications. This is important because even if nonideal theory can justify some principles or facts and solve some problems of injustice without ideal theory, that does not mean that there are not others that do require a theory of perfect justice. For example, Simmons accepts Sen’s point about comparative judgments but contends that we must have ideal theory in order to chart the route to a just society, which might involve taking less than optimal comparative gains

²³ That is, Shelby holds that Anderson’s contractualism is compatible with the Rawlsian view that ideal theory is *necessary* for nonideal theory. Tommie Shelby, “Integration, Inequality, and Imperatives of Justice: A Review Essay,” *Philosophy & Public Affairs* 42, no. 3 (2014): 255, 257.

in the shorter term.²⁴ Therefore, in order to adequately weigh the fundamental case for the dependence thesis, we must examine its principal arguments separately.

We can distinguish more specific dependence theses based on the different principles, facts, or nonideal problems for which they claim ideal theory is necessary. In particular, I will assess the most influential claims that ideal theory is essential for establishing (1) first principles of justice, (2) priority rules, (3) evaluative principles for measuring overall justice, (4) our fair burdens of sacrifice, and because we must take into account (5) the prospect of achieving a realistic utopia.

1.3 First Principles of Justice

Ideal theory is said to be necessary for the justification of the most fundamental or “first principles of justice” that explain what makes a society unjust and how it should be reformed.²⁵ Let us call this “the first principles thesis.” If this claim is correct, then many critics of the dependence thesis that variously use utilitarian, contractualist and egalitarian first principles are committed to the indispensability of ideal theory in spite of their official stances. So far the critical literature has not examined the first principles thesis directly. As I have argued, we can test its soundness by assessing whether the arguments for various first principles necessarily involve an empirical premise of strict compliance or realistic utopianism.²⁶

²⁴ Simmons, “Ideal and Nonideal Theory,” 34–35.

²⁵ Rawls, *A Theory of Justice*, 138, 216; Shelby, *Dark Ghettos*, 11–13.

²⁶ In assessing the first principles claim, it is especially important to distinguish ideal theory from theories that contain values or principles that merely apply to a just society. This is because, by definition, first principles regulate all circumstances (of a specific type) including perfectly just conditions (unless there is no such thing as complete justice for conditions of that type). Hence, if any theory that establishes principles that apply to a just society is an ideal theory, then the first principles claim would be trivially true because any theory that justifies first principles would be

In fact, we have already seen that the first principles claim is not generally true. The basic principle of utilitarianism can be justified apart from ideal theory, and it can be used in nonideal theory to ascertain the right courses of action by determining which have the greatest expected utility. Similarly, injustices are simply violations of the principle of utility. For utilitarianism, then, first principles for identifying injustice and right action in nonideal theory do not depend on ideal theory.

You may suspect that utilitarianism can avoid ideal theory because it is a version of consequentialism. Perhaps, ideal theory is indispensable for some deontological theories, especially contractualism in which mutual justification, reciprocity or fairness is a basic value. However, a structurally identical critique applies here as well. The first principle of contractualism is that we are “to treat rational creatures only in ways that would be allowed by principles that they could not reasonably reject” or could “recognize as justifiable.”²⁷ According to Scanlon, we assess the justifiability of a principle by comparing the burdens different feasible principles would impose on various *single* individuals in the relevant circumstances. An individual can reasonably reject a principle just in case she can propose an alternative principle which is not comparably burdensome for any other individual. For any moral agent (including collective or institutional agents), then, the principles that are reasonably rejectable by none are those that generate (roughly) the weakest individual burden or complaint in the circumstances. Importantly, this first principle and its test of reasonable rejection are not established in ideal theory or for a perfectly just society in particular.

an ideal theory. Since the proponents of the first principles thesis do not seem to be asserting something so trivial, we should adopt my more restrictive formulation of ideal theory.

²⁷ T. M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass: Belknap Press of Harvard University Press, 2000), 106, 169, 153.

Instead, they are justified by much more general considerations about the distinctive value of human beings as rational agents with the capacity to assess reasons and the reasonableness of principles.²⁸ Moreover, both contractualism's basic principle and justificatory method can be directly applied to nonideal situations without taking a detour to ideal theory. In nonideal theory, contractualism justifies principles for any given agent based on the relative costs various principles would have on individuals in *unjust circumstances*; no input from the ideal is necessary. Moreover, injustices or moral wrongs just are violations of principles that no one can reasonably reject in the circumstances. Hence, as with utilitarianism, ideal theory is not essential for deriving or applying the first principles that identify injustice or just social reforms in contractualist nonideal theory.²⁹

How about views for which justice is fundamentally about realizing or approximating an equal or sufficient distribution across individuals of some good? These first principles are non-comparative, and any comparative principle of relative *inequality* or *insufficiency* is essentially an explication of the perfect distributional standard.³⁰ For these views, therefore, it may seem that first principles are ideal principles that must be identified within ideal theory. In fact, these principles do not require ideal theory because they do not have anything specifically to do with a

²⁸ Scanlon, chaps. 2.6, 4–5.

²⁹ Wiens also distinguishes ideal principles from more fundamental principles of justice, but he stresses that more fundamental and especially first principles are “evaluative principles” that rank the desirability of options as opposed to “deontic principles” that specify which actions are “obligatory, permissible, and impermissible.” In contrast, my analysis shows that there are familiar first principles that are deontic. In addition, he does not explicitly address the issue of whether ideal theory is necessary to justify his basic evaluative principles. (I discuss evaluative principles in §§5-6.) Hamlin and Stemplowska separate ideal theory from what they call the “theory of ideals,” but for them ideal theory is about identifying “social arrangements” and “principles” are part of the theory of ideals. Thus, they do not speak directly to the present contention, which in their terms, lies within the theory of ideals. David Wiens, “Will the Real Principles of Justice Please Stand Up?,” in *Political Utopias: Contemporary Debates*, ed. Kevin Vallier and Michael Weber (Oxford University Press, 2017), 152–53; Wiens, “Against Ideal Guidance”; Alan Hamlin and Zofia Stemplowska, “Theory, Ideal Theory and the Theory of Ideals,” *Political Studies Review* 10, no. 1 (2012): 53.

³⁰ David Estlund, “Just and Juster,” in *Oxford Studies in Political Philosophy, Volume 2*, ed. David Sobel, Peter Vallentyne, and Steven Wall (Oxford University Press, 2016), 27–28.

society that is strictly compliant or realistically utopian. Rather, the entire justification for these non-comparative and comparative principles is the value of an equal or sufficient distribution, which is independent from the conduct of moral agents or social institutions. For this reason, we can know that we should aim for more equality or sufficiency, even if complete equality and sufficiency are not applicable in ideal theory because the members of a fully just society are not able to realize these perfect distributions. Therefore, although non-comparative and perfect standards are essential to these first principles and their comparative counterparts, ideal theory is not.

It is possible to construct similar critiques for many other kinds of moral and political theories, including luck egalitarianism, relational egalitarianism, republicanism, and left and right libertarianism, but we have said enough to show that the first principles thesis is not a sound methodological claim. Justifying fundamental principles of justice does not in general require ideal theory.

1.4 Priority Rules

One of the main ways in which ideal theory is taken to be essential for nonideal theory is by supplying “priority rules” that rank or weigh the relative urgency of different principles of justice and injustices.³¹ Call this “the priority rules thesis.” This thesis entails that several critics who make use of priority rules implicitly rely on ideal theory and has not yet been assessed.³² In order to see that the priority rules claim is incorrect, we only need to modestly extend the

³¹ E.g. Rawls, *A Theory of Justice*, 216, 343; Simmons, “Ideal and Nonideal Theory,” 34.

³² E.g. Hamlin and Stemplowska, “Theory, Ideal Theory and the Theory of Ideals”; Gaus, *The Tyranny of the Ideal*, 48ff.

arguments from the previous section. Utilitarianism would determine the comparative importance of different principles just as it does actions, that is, in terms of how much they are expected to increase overall welfare. In some circumstances, satisfying some principles (e.g. implement the social conditions for personal autonomy) might generate more welfare than meeting others. In that case, utilitarianism would imply priority rules that weight the former principles more than the latter, in those circumstances. Since there is no reason why this could not be straightforwardly done for nonideal situations, knowledge of the ideal is extraneous.

Similarly, contractualism justifies principles in terms of their comparative burdens for single individuals. We can simply extend this procedure to the justification of higher-order principles like priority rules and compare the burdens that are attached to various weightings or rankings of certain first-order principles. The right set of priority rules would weigh or rank a principle more or higher just in case following it over the others would burden individuals less than complying with the others over it.

We would be able to derive such rules if we had an account of individual's interests and the priorities among them. Since contractualism holds that the power of rational autonomy is what is most valuable about human beings, we would expect that it would count the promotion of that capacity as persons' highest or lexically prior interest. It follows that priority rules that sacrifice that interest for others would entail greater burdens for individuals than those that promote it over others. Therefore, contractualism would produce priority rules that give precedent to principles that require the effective establishment of the means necessary to protect and cultivate rational autonomy. If these means include the basic liberties (e.g. freedom of conscience, freedom of association, etc.), then we would have a contractualist argument for what Rawls calls "the priority

of liberty.”³³ However, since the basic liberties are of first importance for individuals’ interests in many nonideal circumstances and the contractualist method can be applied directly to these situations, the priority of liberty does not require ideal theory for its justification. It is clear that a similar argument could be run for other priority rules. We could also enumerate parallel critiques within other moral frameworks, but these counterexamples are sufficient to undermine the priority rules thesis as a general methodological truth.

1.5 Approximating the Ideal

Another dependence claim is “the evaluative principles thesis” that we need ideal theory in order to justify “[evaluative] standards for judging the overall justice of particular social arrangements,”³⁴ where these assessments are based on how much a society “approximates” the complete satisfaction of ideal principles. *Formal* methods of approximation state that we measure how much a society fulfills ideal principles “more” or “less” by some formal criterion that does not depend on the content or the comparative importance of ideal principles. In contrast, *substantive* methods are derived from the content and relative significance of certain ideal principles. For example, Rawls says that “the extent of the deviation from perfect justice ... is guided by the priority indicated by [his] lexical ordering,” which suggests that departing from the equal liberties principle makes a society more unjust than violations of the fair equal opportunity and difference principles.³⁵

³³ Rawls, *A Theory of Justice*, sec. 82.

³⁴ Shelby, *Dark Ghettos*, 12.

³⁵ Rawls, *A Theory of Justice*, 216.

Many philosophers have persuasively argued that formal methods commit a logical fallacy, which is usually called “the problem of the second-best.”³⁶ For example, in an ideal socialist society, perhaps (i) the state should follow a distributive principle of equality of income and (ii) citizens ought to and will seek to maximize their pretax income, even though it will be equally redistributed.³⁷ If it is always better to satisfy more ideal principles than less, then in our nonideal circumstances, (i) the state should distribute income equally, even if (ii) does not hold and citizens are not incentivized to maximize their pretax income. Yet, it is reasonable to think that this may not lead to more justice but less because equal redistribution may severely hamper production and end up disadvantaging everyone in comparison to allowing some inequality. The same basic mistake is also exhibited in the reasoning that since having {a salad and dressing} is delightful, it would be better for me to have the {dressing} alone rather than neither. Therefore, the fact that some principles are ideal principles does not establish that obtaining more or a greater degree of them delivers more justice. Indeed, justice may demand that we depart even further from ideal principles (e.g. by embracing inequality of income).

However, proponents of the evaluative principles thesis have not advocated a formal method but a substantive one using priority rules. Nevertheless, substantive approximation faces similar problems. Suppose that in ideal theory, the basic liberties are prioritized because they are

³⁶ “[I]t is not true that a situation in which more, but not all, of the optimum conditions are fulfilled is necessarily, or is even likely to be, superior to a situation in which fewer are fulfilled.” R. G. Lipsey and K. J. Lancaster, “The General Theory of Second Best,” *Review of Economic Studies* 24 (1956): 11–33; Robert E. Goodin, “Political Ideals and Political Practice,” *British Journal of Political Science* 25, no. 1 (1995): 37–56; Geoffrey Brennan and Philip Pettit, “The Feasibility Issue,” in *The Oxford Handbook of Contemporary Philosophy* (Oxford: Oxford University Press, 2007), 258–82; David Wiens, “Assessing Ideal Theories Lessons from the Theory of Second Best,” *Politics, Philosophy & Economics* 15, no. 2 (2016): 132–49.

³⁷ Joseph H. Carens, *Equality, Moral Incentives, and the Market: An Essay in Utopian Politico-Economic Theory* (Chicago: University of Chicago Press, 1981); David Estlund, “Human Nature and the Limits (If Any) of Political Philosophy,” *Philosophy & Public Affairs* 39, no. 3 (2011): 214–15.

necessary for and able to advance citizens' most important interests.³⁸ Yet, since the basic liberties can effectively promote those interests only if certain material and social conditions are satisfied,³⁹ it follows that the priority of liberty does not hold if those conditions are undermined by injustice. For example, the state may not have the capacities to meet the prerequisites for the priority of liberty because of intractable economic wrongs (e.g. tax evasion, capital flight, fraud etc.) by other agents and thereby may not be obligated to follow that principle. This demonstrates that the fact that certain priority rules are ideal principles does not establish that moral agents should apply or approximate them in nonideal theory, when other aspects of a just society are infeasible or will be missing. In fact, instead of exacerbating injustice, justice may permit or require deviations from ideal priority rules.

In spite of their differences, both the formal and substantive methods of approximation fail to guarantee greater justice for the same reason, namely, that whether meeting any ideal principle (including priority rules) will deliver more justice may be contingent on the other features of perfectly just circumstances, such as the fulfillment of other ideal principles or certain empirical, social and normative conditions. Since the value of an ideal principle in terms of justice may be dependent on certain conditions and these conditions may be absent in nonideal situations, it is a fallacy to infer from the fact that certain principles are ideal that we should apply or approximate them in nonideal theory. These problems with ideal approximation exhibit a more general phenomenon:

³⁸ Rawls, *A Theory of Justice*, sec. 82.

³⁹ Rawls, 476.

Approximation Fallacy: For any valuable set of conditions and any specific condition within it, it is a fallacy to infer from the value of that set that, when some of the conditions in the set are lacking, it is better to realize that particular condition, for the value of that condition may depend on the others.⁴⁰

The approximation fallacy explains why it is a mistake to infer from the perfect justice of satisfying ideal principles that we should approximate them using formal or substantive rules. It also means that ideal theory per se or merely establishing ideal principles is necessarily insufficient for justifying principles to apply or approximate in nonideal theory, when the situation is such that a just society cannot or will not be realized. Therefore, for these practical contexts, it is wrong to think that merely completing ideal theory could provide possible support for the first principles, priority rules, or evaluative principles claims by exemplifying one way in which ideal theory can justify principles for nonideal theory.

The approximation fallacy has important implications for the relevance of ideal theory that have not been spelled out.⁴¹ The present insufficiency of ideal theory means that in order to establish principles to apply or approximate for situations in which complete justice cannot or will not happen, we must go outside of ideal theory and justify principles for certain nonideal situations specifically or for a more general set of circumstances, which may include nonideal and ideal

⁴⁰ This is different than Estlund's "Fallacy of Approximation," which is the error of reasoning according to a formal method that he calls the "Superset Principle." The "Approximation Fallacy" captures why both formal and substantive methods are fallacious. I am indebted to Estlund's extensive discussion of Superset. Cf. David Estlund, *Utopophobia: On the Limits (If Any) of Political Philosophy* (Draft, 2018), 262.

⁴¹ The literature tends to focus on how formal approximation is erroneous and does not pursue the constructive dimensions I will outline. As Wiens argues, the problem of the second-best does not mean that ideal theory is not necessary for identifying a long-term target for nonideal theory, but I will address that dependence claim in §8. Wiens, "Assessing Ideal Theories Lessons from the Theory of Second Best."

contexts. What the fallacy rules out is the option of *deducing* these principles from ideal principles without further argument. Deductions of nonideal from ideal principles could be justified by more general principles that regulate both unjust and just societies, but if these latter principles are already available, then we would not need ideal theory anyway. Nevertheless, ideal theory may provide significant or necessary *inductive* or *abductive* evidence for defending principles that apply in nonideal theory. For example, ideal principles may be inductive or abductive grounds for formulating more general principles or we may assess independently derived general principles by ascertaining ideal principles from them and testing both against our considered judgments about a just society. One reason why ideal theory might be essential or important for these purposes is that its assumptions of strict compliance or realistic utopianism may make the problem of identifying ideal principles much simpler and more theoretically tractable than more directly tackling the question of which principles apply to the messy realities of contemporary unjust societies. The proposal, then, would be that we can gain inductive or abductive support for some principles for nonideal theory more easily via ideal theory and that it may be too difficult to justify those principles independently of such evidence. I will leave open the possibility that in some epistemic circumstances, ideal theory may supply helpful, significant or even necessary evidence.⁴² It is worth noting, however, that this is a much more epistemologically contingent role for ideal theory than the supporters of the dependence thesis have usually put forth. Whether ideal theory is necessary or significant in the above ways simply depends on the strength of the independently available arguments and evidence for the principles of nonideal theory. We have already seen that

⁴² There are reasons to doubt the reliability of normative and non-normative evidence that can only be ascertained via ideal theory because a perfectly just society is remote from our actual experience. I examine the justificatory importance of having real experience of the practical consequences of moral principles in Ch. 2.

first principles and priority rules can be established without ideal theory, and we will see that evaluative principles can as well. Similarly, insofar as we must test our principles against our considered judgments about particular cases, it is often enough that they produce the right conclusions for an adequate set of nonideal cases. The approximation fallacy also has significant and unexplored consequences for nonideal theory more generally, which I will discuss in the last section.

1.6 Measuring the Extent of (In)justice

I have challenged the evaluative principles thesis by showing how ideal theory cannot justify evaluative standards for measuring the overall justice of a society. Presently, I will take a more direct approach and demonstrate how we can justify and apply evaluative principles apart from ideal theory. There are two main conceptions of overall justice and evaluative standards. On the first, justice is fundamentally a virtue of moral agents and society is unjust only to the extent that, in the circumstances, agents have duties of justice to sustain or reform it in some way and are not compliant.⁴³ In evaluating the justice of a society, then, we are assessing the degree to which either (1) a particular institutional or group agent (e.g. the state or the people as a collective body) or (2) society as a collection of distinct agents (e.g. the state, the people, associations, families, and individual citizens etc.) are fulfilling their respective duties of justice. In the former case, we would examine how far the institutional or group agent satisfies its obligations of justice and the severity of its failures, whereas in the latter case, it is a matter of weighing the same for each separate agent and making some kind of aggregative judgment of overall societal justice. The

⁴³ Several defenders of the dependence claim are committed to this view of justice. E.g. Rawls, *The Law of Peoples*, 5; Rawls, *A Theory of Justice*, 215ff; Simmons, “Ideal and Nonideal Theory,” 15–17, 17 note 16; Shelby, *Dark Ghettos*, 12; Hillel Steiner, “Debate: Levels of Non-Ideality,” *Journal of Political Philosophy* 25, no. 3 (2017): 376–84.

intuitive idea is that the more separate agents commit injustice and the more grievous those wrongs, the more unjust society is as a whole.

Either way, the evaluative principles that nonideal theory requires are those that identify the duties of societal agents in unjust circumstances and the significance of meeting those duties. We have seen that we do not need ideal theory to justify principles for nonideal obligations, such as first principles and priority rules. In addition, first principles often imply standards for measuring the importance of performing certain duties. For example, the principle of utility implicitly ranks available actions in terms of their expected welfare, which allows us to assess the severity of an unjust action by the extent to which an agent can but does not choose actions with more expected welfare.⁴⁴ Similarly, for contractualism, what makes an act wrong are the burdens that make principles that permit it ones it would be reasonable to reject. The extent of an act's wrongfulness, therefore, is to be judged by how much it fails to show proper respect for the greater burdens of some individuals. Since we can justify principles for ascertaining nonideal obligations and their importance apart from ideal theory, we can also judge the overall justice of a society independently and the evaluative principles thesis is incorrect.

On the second conception, evaluating the overall justice of a society is taken to be a measurement of the value of a *state of affairs*, which can be developed into an axiology or ranking of the desirability of different states of affairs. Axiological considerations, however, do not support the evaluative principles thesis either. For example, utilitarianism and contractualism entail axiological principles that rank social arrangements in terms of their expected utility and burdens

⁴⁴ Other relevant factors may include agents' motivations, the difficulty of compliance, and epistemic limitations, but these do not implicate ideal theory.

for individuals. The arguments for these evaluative principles would involve the importance of maximizing welfare and the contractualist requirement and analysis of justifiability, but the assumption that society is perfectly just, and hence ideal theory, is unnecessary.

In addition, it would be a mistake to identify the wrongs of a society and the extent of its injustice by how far its axiological value falls short of an ideal society's. Although a just society is a state of affairs that could be reached if everyone complies with their duties (within some limitations), this does not imply anything about the responsibilities we have in unjust circumstances. To see this, consider:

Beach: X and Y are at the beach looking out onto the waters. They see Z drowning. If X and Y attempt to rescue Z together they will succeed without paying any significant costs. However, neither X nor Y is strong enough to rescue Z alone. Indeed, if X or Y tries to rescue Z alone, they will drown along with Z. These facts are known to X and Y.

This is a standard rescue case but for multiple agents, in which the morally best outcome is attainable just in case X and Y rescue Z together. Yet, even so, this does not entail that X has a moral duty to rescue Z or that Y does. This is because neither X nor Y *can* or *has the ability* to rescue Z independently of the other, and it would be too costly and only make things morally worse if they tried to (i.e. two people will die instead of one). Whether X has a duty to rescue Z is conditional on whether Y will engage in rescue and vice versa. Hence, if Y is not willing to rescue Z, X does no wrong in not making the attempt, and if X is not willing, Y would not be wrong

either. It also follows that if neither X nor Y is willing, then neither X nor Y does any wrong in neglecting to save Z.⁴⁵

Similarly, realizing a just state of affairs necessarily involves the cooperation of many moral agents. For example, satisfying a principle of equal opportunity not only requires the state to uphold just laws, but schools, corporations, and individuals must also supply education and jobs in a fair and non-discriminatory manner. Since no single agent is able to bring about perfect justice on its own, none has the obligation or can be deemed unjust for failing to do so. Furthermore, societal agents' capacities and duties for advancing justice are dependent on the actions of others.⁴⁶ Therefore, even if the members of a society are able to and ought to fulfill certain duties that would jointly bring about a just society when everyone is acting rightly in ideal theory, it does not follow that they can satisfy or have any of these obligations when many commit injustice. Hence, in nonideal theory, we cannot ascertain the degree of a society's injustice from its difference in value from an ideal state of affairs.⁴⁷

⁴⁵ Cf. David Estlund, "Prime Justice," in *Political Utopias: Contemporary Debates*, ed. Michael Weber and Kevin Vallier (New York: Oxford University Press, 2017), 51ff.

⁴⁶ This is something we already saw in discussing the approximation fallacy.

⁴⁷ I will address the remaining question of whether the axiological value of a just state of affairs is essential for ascertaining which actions we should take in nonideal theory in §8. Gerald Gaus considers if we must do ideal theory in order to approximate the institutions or social structures of a just society. We may call this "the structural similarity thesis." The main idea is that gaining more similarity to the ideal may enable us to achieve greater heights of justice in the long run than choosing more dissimilar options that promise more justice now. The essential role of ideal theory here is not to eventually allow us to fully realize perfect justice, but only to decrease our distance from its institutions. Gaus is well aware of the approximation fallacy, but for the sake of argument, he assumes there is a reliable correlation between institutional closeness to perfect justice and comparative justice. His own objection to this argument is that the justice of supposedly ideal institutions is too uncertain to justify sacrificing the more certain advances in justice that dissimilar social arrangements offer to us. But, there seems to be a more fundamental problem as well: Why do we need ideal theory in order to identify the social structures we should approximate? We are not currently interested in achieving a perfectly just society per se, so we can restrict our sights to nonideal institutions. Furthermore, as we have seen and as Gaus presupposes, we can justify and apply principles for measuring the comparative justice of social institutions independently of ideal theory. Therefore, if there are some structural arrangements that we should approximate in the long run, we seem to have sufficient resources to ascertain what they are apart from ideal theory. Gaus, *The Tyranny of the Ideal*, 39, 52, 63–84, 140.

1.7 Fair Shares and Burdens

The moral aim of realizing complete justice can be understood as a requirement that is the shared responsibility of a collection of distinct agents. For such collective requirements, some argue that it is unfair to be required to sacrifice more than we would be in a situation in which everyone complies with their fairly distributed duties towards their common end.⁴⁸ This is a version of “the fair burdens thesis” that in order to know our fair level of sacrifice in nonideal theory, we need to do ideal theory.

Against the moral importance of strict compliance, David Enoch argues that “whether or not some expected behavior of others is in compliance with the moral requirements applying to them is intrinsically irrelevant to what ought to be done” by an agent who is a “third-part[y] or bystander[.]” and not the perpetrator or patient of wrongdoing.⁴⁹ However, even for third-parties, it is plausible that noncompliance is inherently morally significant. For example, many people accept that harm is worse when it is the result of a moral violation rather than a natural accident and that thereby bystanders have additional reasons to prevent or rectify such harms.⁵⁰ Furthermore, we may want to know the moral effects of noncompliance when we are among the victims of unfairness. For these reasons, my critique of the fair burdens thesis will not deny the

⁴⁸ Murphy, *Moral Demands in Nonideal Theory*.

⁴⁹ David Enoch, “Against Utopianism: Noncompliance and Multiple Agents,” *Philosopher’s Imprint* 18, no. 16 (2018): sec. 3.

⁵⁰ This is a central feature of Tadros’s “Victims of Unfairness” argument. Enoch cites Tadros, but he does not address this part of Tadros’s reasoning, which is inconsistent with his noncompliance as “merely circumstances” thesis. I do not think Enoch’s arguments undermine the idea that third-parties have intrinsic reasons to stop wrongdoing. The idea, for example, plausibly applies to his lifeguard and drowning child case (see below). Victor Tadros, “Permissibility in a World of Wrongdoing,” *Philosophy & Public Affairs* 44, no. 2 (2016): sec. III.

moral relevance of wrongdoing or unfairness. I shall only argue that ideal theory and strict compliance across contemporary societies is not necessary for ascertaining our fair costs.

There are two primary kinds of argument in favor of the view that our nonideal burdens are normatively dependent on strict compliance, which are not clearly distinguished in the literature. First, some maintain that a person has more or less reason to address harm or wrong if, and because, some agent does not perform the fair obligations they have under strict compliance. In these cases, it is assumed that the noncompliers have the same duty in partial and full compliance and that we can thereby discern their present wrongdoing by seeing how their actions deviate from those in ideal theory. The question is how their noncompliance with their duties under full compliance affects others' fair burdens in nonideal theory. A lifeguard, for example, may have a duty to save a drowning child when she fulfills it (strict compliance) and when she does not (partial compliance)—what should others do when she fails to comply?⁵¹ Do they have less or even more reason to save the child because her situation is the result of unfairness or wrongdoing? While it may work for some localized cases, assuming strict compliance across an entire society with a great number of people is not a reliable way of identifying people's actual obligations. This is because (as we saw with the approximation fallacy and the Beach case) whether an agent has the ability or duty to perform a certain action may be contingent on the actual (or expected) behavior of others. Hence, what I can and am required to do in the highly counterfactual scenario in which all societal agents are compliant may be drastically different than what I am able to or should do in contemporary circumstances where I can expect many to act wrongly. Perhaps, Susan is the

⁵¹ Enoch discusses this case in the context of strict compliance and ideal theory. Tadros's cases have this structure as well. Although I wrote about the significance of multiple agents for ideal theory before reading Enoch's paper, several of my arguments (including the present one) are related to Enoch's point about the importance of multiple agents in political philosophy. Enoch, "Against Utopianism," sec. 3; Tadros, "Permissibility in a World of Wrongdoing."

foremost expert in national healthcare who, in full compliance, would have a duty to implement a fully just healthcare system because she would receive plentiful material resources and the cooperation of many other individuals and institutions. Yet, clearly this does not imply that she has a duty to or could do the same in partial compliance where she may receive very little or none of the assistance she needs to fulfill that project. Therefore, if ideal theory is in general supposed to be necessary for ascertaining our fair burdens in nonideal theory, it cannot be because we ought to act as we would assuming strict compliance and that departures from ideal duties constitute injustice or unfairness. Hence, the fair burdens thesis requires another basis.

The second model assigns special importance to the fair shares or net benefits and burdens (e.g. in well-being, primary goods, wealth, etc.) that we would have in ideal theory. The distribution of shares under strict compliance may be fair because it is a situation in which every agent is doing her part, an outcome of just institutions, or satisfies some criterion of equality.⁵² In addition, Liam Murphy argues that “[i]f there is such a thing as a fair allocation of responsibility [i.e. shares], it is natural to think that it is unfair ... to require agents, under partial compliance, to exceed that fairly allocated responsibility.”⁵³ He concludes, therefore, that in nonideal theory, a person is only obligated, if and only if she is able and it would be beneficial to the shared end (of justice), to make sacrifices up to, but not beyond, her fair shares as identified under strict compliance or that it is in some way unfair if she has to do more.⁵⁴ This kind of argument for the

⁵² E.g. “any plausible agent-neutral principle automatically distributes compliance effects fairly under full compliance; at least ... if we employ a minimal notion of fairness,” namely, “formal fairness [that] requires a distribution be equal unless there are good grounds for departing from equality.” Murphy, *Moral Demands in Nonideal Theory*, 90, 107, 112.

⁵³ Murphy, 93.

⁵⁴ Murphy, 87.

fair burdens claim does not suffer from the difficulties I highlighted for the preceding one because it does not state that we are to *act* as in ideal theory but only that we must take on our full compliance (i) *costs only if* (ii) *it is possible* and (iii) *beneficial for social justice* (and that it is unfair if more is demanded). So, even if Susan has a duty to give \$50,000 in ideal theory, this line of reasoning does not say that she must do the same in nonideal theory. It may be that she only has \$10,000 to contribute under partial compliance, in which case no one can complain that she is doing less than her fair share (\$50,000) because she is not able. Likewise, while some actions suitable in ideal theory would be unjust in nonideal theory, this problem is avoided by measuring our required burdens in terms of well-being or social goods and by specifying that sacrifice is mandated only if it is conducive to greater justice.

Fairness is meant to explain why strict compliance and its associated shares are essential for our nonideal burdens. However, that the distribution of costs should be fair does not mean that it must be based on full compliance. For example, an agent's duties and burdens might be fair just in case they are demanded by a requirement of equal concern for everyone's interests in the relevant nonideal circumstances. This principle may be justified (e.g. by the equal standing of persons or citizens) and applied directly to unjust conditions without involving strict compliance. Moreover, even if the allocation of shares in ideal theory is fair that does not imply that an identical distribution is also fair when there is substantial injustice. For when the ideal distribution of shares does not exist, some people may be extremely disadvantaged in comparison to others and fairness may very well entail more costly duties than in ideal theory to mitigate that disparity.⁵⁵ Therefore,

⁵⁵ Murphy stresses that we should not conflate his "limited notion of unfairness" about taking on "responsibilities that rightly belong to others" with "the fairness of the distribution of well-being." However, this would not be responsive to the present point, which is that a fair distribution of responsibility may be determined by a fair distribution of well-

fairness in distributing burdens does not implicate ideal theory, at least without additional argument.

The present case for the fair burdens claim, then, seems to rest mainly on intuitive considerations, but it faces very strong objections here as well. Consider:

Ideal Distribution: X is an affluent member of society who could do much to assist those who suffer from injustice (e.g. by providing adequate healthcare, better education, etc.) with little cost to herself. However, society is extremely unequal with most of its economic and political power concentrated in a class of people Y who are significantly better off than X. Indeed, if everyone were to fulfill their duties of justice, then the redistribution and use of Y's resources (and others' compliance) would be so effectual that X would have to give nothing to correct injustice. Moreover, her fair share would consist of even more societal goods than she currently possesses. But, many including Y will not fulfill their duties and serious wrongs that X could easily abolish will persist.

According to Murphy, it is permissible for X to do nothing on behalf of justice because in ideal theory she does not have any burdens. But, clearly this is too restrictive. Surely, X has a duty to remove the injustices she could without incurring any substantial costs, if not more. Even if

being and hence, that there may be no objection based on fair burdens to being required to sacrifice more than in strict compliance. Murphy, 92, 152 note 19.

surpassing our fair costs under full compliance affects our nonideal burdens, it cannot set an upper limit to them.⁵⁶

How about a weaker thesis that someone's exceeding her strict compliance shares provides a defeasible reason not to sustain more sacrifice? Does X have reasons not to rectify injustice simply because and to the degree that it would involve costs that surpass her fair shares in ideal theory? Suppose that X decides that she is required to spend \$100,000 to support a policy to improve education in a severely disadvantaged neighborhood and that her judgment rightly takes into account the gravity of the need and injustice, the expected benefits and risks of her efforts, and the overall costs to her interests. Next, compare a situation in which X later learns that her plan amounts to giving \$100,000 more than what would be fair in ideal theory to one in which she discovers that it would involve no additional costs than under strict compliance. After acquiring these facts, how much should X's new view of her duty differ between these cases?⁵⁷ Importantly, we are not now asking how much paying \$100,000 would affect X's interests because she has already incorporated that consideration into her initial judgment.⁵⁸ The question is whether, *in itself*, sacrificing \$100,000 *more than what would be fair assuming strict compliance* is a factor

⁵⁶ For similar objections: Tim Mulgan, "Two Conceptions of Benevolence," *Philosophy & Public Affairs* 26, no. 1 (1997): 62–79; Tadros, "Permissibility in a World of Wrongdoing."

⁵⁷ Cf. The argument for the (objective) wrong facts objection in Mulgan, "Two Conceptions of Benevolence." However, Mulgan does not argue against the idea that strict compliance burdens have some weight, only that they do not have very much weight.

⁵⁸ One of Murphy's aims is to provide a better explanation of the intuitive objection that a maximizing principle of beneficence is overly demanding. Is it inappropriate, then, that my argument distinguishes reasons based on fair shares in ideal theory from those due to costs to X's interests? I do not think so. If exceeding strict compliance burdens explains the overdemandingness worry, then the latter should be felt when the former is at issue. But, this is clearly not true, as in cases like Ideal Distribution, in which the potential burdens are nonexistent or negligible. Therefore, these concerns seem to be importantly distinct and our assessment of the fair burdens thesis can make use of that difference.

that should affect X's judgment about her required sacrifice. My sense is that these facts about X's fair shares in ideal theory should make no difference to her judgment and that they are irrelevant to her nonideal burdens. At the least, it is very unclear that there are intuitively any independent reasons related to full compliance shares that are not confused with or better explained by the other considerations I have mentioned. Conversely, if X were to contribute less than she ought, it is at least very unclear that she would be wrong in virtue of the fact that she is giving less than her full compliance burdens. It seems plausible that her fault would be entirely due to not being properly responsive to the actual weight of her interests, to the severity of the relevant injustices, or to the likely risks and benefits of her actions. It follows that, while agents' unfair actions may give us less or more reason to rectify injustice, strict compliance shares do not seem relevant for identifying those actions or explaining why they are unfair. I do not think, therefore, that concerns about fulfilling and not having to exceed our fair costs in ideal theory enjoy sufficient intuitive force to establish the fair burdens thesis either.

1.8 Realistic Utopia as a Social Prospect

A. John Simmons provides the most influential articulation and defense of the dependence thesis. His justification differs from the previous accounts in that he focuses mainly on the function of ideal theory in identifying a long-term practical target that we are to eventually achieve, rather than principles or facts that are to be more directly applied in unjust circumstances. The fundamental role of "ideal theory" is that it "dictates the objective" of a realistic utopia, while "nonideal theory dictates the route to that objective."⁵⁹ Simmons's position is a version of "the realistic utopia thesis" that ideal theory is necessary for nonideal theory because the achievement

⁵⁹ Simmons, "Ideal and Nonideal Theory," 12.

of a realistic utopia is an important prospect that should affect which courses of action we adopt in contemporary circumstances. Unfortunately, Simmons does not give an argument for his vital assumption that nonideal theory has to be concerned with attaining perfect justice, and it is not obvious that it must. Consider the following case from Frank Jackson:

Drug: Jill is a physician who has to decide on the correct treatment for her patient, John, who has a minor but not trivial skin complaint. She has three drugs to choose from: ... Careful consideration of the literature has led her to the following opinions. Drug A is very likely to relieve the condition but will not completely cure it. One of drugs B and C will completely cure the skin condition; the other though will kill the patient, and there is no way that she can tell which of the two is the perfect cure and which the killer drug. What should Jill do?⁶⁰

I shall take it that Jill has a duty to choose drug A and that it would be impermissible for her to give John B or C. Although B or C is the perfect cure and these options have the greatest chance of restoring John to full health, it would be wrong to administer either of them because of the risk that they have an equal chance of killing him. Hence, Jill ought to select A because it is most likely to benefit John while also avoiding harm. This means that the actions we are required to perform are not identical to those that would *in fact* lead to the best or “ideal” outcome (e.g. perfect health) or even to those that have the highest probability of realizing the “ideal.” Even

⁶⁰ Frank Jackson, “Decision-Theoretic Consequentialism and the Nearest and Dearest Objection,” *Ethics* 101, no. 3 (1991): 462–63.

though A has a lower probability of bringing John to complete health than B or C, Jill has a duty to choose A. Instead, what Drug strikingly shows is that, at least in terms of consequences, we are to take the action our *evidence* indicates is the one that provides the *best chance* of realizing what is of value and of avoiding what is of disvalue.⁶¹ The basic idea is that we have more (or less) reason to perform an action to the extent that it has a higher probability of generating some good (or bad) consequence and to the degree to which the (dis)value of that outcome is greater. Other things equal, then, the morally right action is the one with the *greatest expected value*, where the expected value of an action is an aggregative judgment based on what the evidence indicates about the probabilities and the values of its possible outcomes. Hence, for our purposes, the relevant duty is to take the actions with the greatest expected justice (i.e. with the best chance of attaining justice and avoiding injustice), all things equal.⁶²

Drug shows that a higher chance of realizing the ideal outcome is not a conclusive consideration in favor of an action. What matters is the relative expected justice of various actions and the probabilities and values of their consequences in general, not the chances of realizing a just society only. It may be our moral duty, then, to try to realize outcomes other than a perfectly just society, if those actions have the most expected justice. It also may be, however, that our best chance of maximizing overall justice does involve aiming at perfect justice or, more modestly, that a realistic utopia is a significant prospect that is crucial for determining which courses of actions do have the greatest expected justice. Either would establish the realistic utopia claim.

⁶¹ Michael J. Zimmerman, *Ignorance and Moral Obligation* (Oxford: Oxford University Press, 2014).

⁶² Henceforth, I will assume that the relevant actions are permissible and not too burdensome.

However, if, in our circumstances, the outcome of a just society cannot make a difference to identifying the actions with the most expected justice, then it is irrelevant and the realistic utopia thesis collapses.⁶³ Furthermore, our estimations of how much our available actions might influence the probability of achieving complete justice have to be reliable enough to potentially justify forgoing considerable gains in justice that are relatively likely.⁶⁴ For if they are not, then we may set aside the possibility of perfect justice in nonideal theory because it will not change the outcome of any important decision about which tradeoffs in expected justice we should accept.⁶⁵ I will argue that it is very doubtful that the prospect of bringing about a realistic utopia passes either of these tests because we are not capable of credibly predicting how the probability of realizing a just society would be affected by our actions.⁶⁶

We have seen that the expected justice of an action is a function of both the probabilities and the values of its possible outcomes as indicated by the evidence available to us. A prospect, therefore, can affect the relative expected justice of different actions only if we can ascertain, from our evidence, how much the probability of its occurrence would change if those various actions were to be taken. In other words, an outcome is significant to whether we should choose one action

⁶³ The potential critique of the realistic utopia thesis mentioned here is stronger than usual. Whereas other criticisms (including the one later in this paragraph) argue that we *need not* use ideal theory to justify duties in nonideal theory, this objection says we *cannot* use the prospect of a realistic utopia in justifying our duties because of our cognitive and epistemic limitations.

⁶⁴ Hamlin and Stemplowska, "Theory, Ideal Theory and the Theory of Ideals," 59.

⁶⁵ Unimportant choices are about negligible sacrifices in expected justice because the outcome passed over is not very valuable or very unlikely.

⁶⁶ Gaus's critique of the dependence claim is also centered on uncertainty. However, his argument is different because it is based on *moral* uncertainty about the *axiological value* or *justice* of the institutions of ideal theory. In contrast, my case is premised on *non-moral* uncertainty about the probabilities that a just society *will be realized*. I believe the non-moral epistemological difficulties for ideal theory are even worse and more insurmountable than the moral ones. Gaus, *The Tyranny of the Ideal*, 76ff.

over another only if we have the ability to predict the extent to which these actions would make its realization more or less probable. This means that a social prospect cannot influence which action maximizes expected justice in nonideal theory if we are not able to determine what its likelihood would be conditional on our available actions.

The problem for the prospect of a realistic utopia is that we simply are not able to predict how our actions will influence its probability based on the evidence available to us. Even on optimistic estimates, the realization of complete justice, if it happens at all, will involve many radical social changes from the current state of affairs that will take a very long time to accomplish. Necessary to these transitions will be, across an expansive timeframe, a multitude of moral agents, their actions, capacities, and motivations, and numerous favorable background conditions, each of which depend on highly complex and interacting causal processes. Whether these actions, agents, and conditions will exist will be determined by, for example, the psychological, economic, social, political, ideological, technological, environmental, national, international, and other kinds of facts about the world and how they will change in the future.⁶⁷ It follows that measuring the probability of bringing about a just society involves gaining extensive empirical knowledge about all these various factors and their causal relations and making reliable forecasts about how they are likely to develop into the distant future when perfect justice might be achieved. Only then would we be able to credibly judge how our available actions will influence the chances that a realistic utopia and all the steps needed to achieve it will occur. However, no one has the knowledge or the

⁶⁷ For more on the relevant types of empirical facts and a similar critique regarding the difficulties of ascertaining the *feasibility* of an ideal society, see David Wiens, “Political Ideals and the Feasibility Frontier,” *Economics and Philosophy* 31, no. 3 (2015): 452–53, 467. Unlike Wiens, I do not base my argument on knowledge of feasibility or the “morally optimal feasible world” because my account implies that we may be required to support the realization of targets that we cannot know are or will be feasible as well as outcomes that are not optimal ones.

cognitive powers to make the necessary predictions. We already face substantial uncertainty with assessing the short and medium-term consequences of current empirical trends and policies, let alone their effects on the probability of an extremely remote ideal. Unfortunately, our ignorance means that the prospect of a realistic utopia cannot assist us in establishing the actions with the most expected justice in nonideal theory. Or, if we believe we can draw some vague estimations, they may be ignored in nonideal theory because they are bound to be too unreliable to justify sacrificing any relatively certain and important advance in justice. The realistic utopia thesis, therefore, fails.

Simmons allows that we may not be able to adjust our actions to the goal of a realistic utopia because “we simply cannot confidently make the social scientific ... judgments” about “how current efforts in the cause of justice will affect society over the long run,” but the only alternative he considers is to “accept whatever comparative gains in justice we can get or single-mindedly attack some particular, salient injustice.”⁶⁸ However, the fact that our epistemic situation rules out some long-range targets does not imply that our only choice is to always take the best short-term gains or to focus on specific injustices rather than taking a more future-oriented and holistic picture. The courses of action with the greatest expected justice may very well demand forgoing the most just and currently accessible improvements for the realization of more justice later on. In addition, these latter aims may be integrated and involve dealing with multiple injustices together. We should be careful, therefore, not to conflate guidance by ideal theory with judiciously seeking overall justice or the rejection of ideal theory with shortsightedness and

⁶⁸ Simmons, “Ideal and Nonideal Theory,” 24.

myopia.⁶⁹ On the contrary, it turns out that, in contemporary circumstances, doing our very best to progress toward integrated justice in the long run does not require ideal theory at all.

1.9 Nonideal and Systematic Theory

I have argued that the main justifications for the necessity of ideal theory are unsuccessful. We do not rely on ideal theory to justify first principles, priority rules, evaluative principles, fair burdens or the actions with the greatest expected justice in nonideal theory. In this final section, I will put forth a positive view about how we should develop a systematic nonideal theory based on why the previous dependence claims are mistaken.

The first principles, priority rules, and evaluative principles theses are unsound because we can identify fundamental values and principles of justice and their priorities without specifically determining the principles of completely just arrangements. We can justify principles for nonideal theory both by testing which values and principles best explain why specific actions and states of affairs are unjust or rightful and by deducing the implications of more fundamental values and principles. Although considering specific cases may be indispensable in a holistic process of justification, there is no general reason why the case of perfect justice is necessary or has priority on inductive terms (except for the qualifications mentioned at the end of §5.) Indeed, since we are interested in principles for nonideal theory, it is most important and sufficient if they supply the right results in an adequate range of nonideal cases. In addition, we have not found any successful argument that ideal theory is necessary for more deductive explanations of the principles or facts that nonideal theory requires. Instead, we have seen that following ideal principles can lead to

⁶⁹ Contrast: “While some of us may become preoccupied with particular targeted injustices that seem to us especially grievous, none of us forgets that justice is an integrated goal and that activism in one domain has the potential to affect adversely the achievement of justice in another. *This is all, really, on which Rawls’s model of the ideal-nonideal distinction insists that we focus.*” Simmons, 36 emphasis added.

injustice in unjust circumstances and that we must go outside of ideal theory to justify principles to apply in nonideal theory. Moreover, we have learned that our strict compliance burdens and the prospect of achieving a realistic utopia are not important for nonideal theory. Overall, these considerations strongly support the view that it is often necessary, sufficient, and most important for a systematic nonideal theory to justify its principles based on the moral and non-moral features of unjust circumstances rather than the specific contours of perfect justice.⁷⁰

Furthermore, we can identify two ways in which nonideal theory must be *realistic*. First, the approximation fallacy means that nonideal theory must be sensitive to how some principles, institutions, policies, and actions may be required by justice only if other conditions are satisfied. Importantly, these concerns are not restricted to ideal theory and apply to more general and specific nonideal principles as well. For example, both the principles of equal concern and equal power may be constitutive of a society of equals,⁷¹ but we cannot assume that one should be pursued when the other is absent. It may be that power should not be more equally distributed if some do not have sufficient concern for their fellow citizens and would abuse their political influence. Or a citizen may not have a duty to show equal concern to another when the other does not adequately reciprocate. Therefore, the justification of principles for nonideal theory should not abstract from, idealize, or make counterfactual assumptions about facts (a) that may affect the applicability of these principles and (b) that have a significant likelihood of not obtaining in our circumstances.

⁷⁰ I am counting more general facts that are part of both just and unjust situations (e.g. the existence of rational agents that grounds the contractualist requirement of mutual justification) as part of unjust circumstances. Notice that I do not say that ideal theory is completely irrelevant or useless. For example, it may still be part of or strengthen the justification of principles for nonideal theory, even if other premises would be sufficient.

⁷¹ E.g. Daniel Viehoff, "Democratic Equality and Political Authority," *Philosophy & Public Affairs* 42, no. 4 (2014): 337–75.

We will also want to know what it would take to fulfill the pre-conditions of salient principles of justice and the likelihood that they will be satisfied, if ever. Principles with infeasible or extremely unlikely prerequisites will not apply in nonideal theory or tell us how to respond to contemporary problems of injustice.

Second, the evidential and probabilistic dimensions that formed the basis of the critique of the realistic utopia thesis are clearly important for nonideal theory in general. If our evidence and cognitive powers are not able to credibly discern the probability of any valuable social prospect conditional on our available actions, then that possibility cannot influence the expected justice of these actions or help determine which ones we should take. Furthermore, the very great value or justice of an outcome is not sufficient to establish that we have a duty to attempt its realization or make it more probable. Instead, our obligations depend on what our evidence says about both the values and the likelihoods of the consequences of pursuing different political targets. It follows that nonideal theory should not set forth social policies without comparing the expected justice of various options and being informed by existing moral and social-scientific evidence about the value and chances of their outcomes.

As I will argue in chapters 2 and 3, neither of these points about how nonideal theory must be realistic are fully appreciated by some approaches that reject the claim that ideal theory is necessary. Therefore, in addition to defending the necessity, sufficiency and priority of justifying principles based on the facts of unjust circumstances, this chapter supports a distinctive approach to constructing a systematic theory of injustice that is more sensitive to the conditionality of requirements of justice and to the moral and empirical uncertainty of social prospects.

Chapter 2: Pragmatism as Nonideal Methodology and Moral

Epistemology

Nonideal theory identifies the principles or duties of justice that apply in contemporary unjust circumstances. A nonideal methodology or moral epistemology is an account of the factors that are necessary or significant for justifying those requirements and of why they are required or important. In chapter 1, I examined the influential claim that ideal theory is necessary to identify some of the premises needed to justify certain obligations in nonideal theory. In this chapter, I will consider Elizabeth Anderson's pragmatist nonideal methodology, which holds that we need not rely on ideal theory in moral justification (at least for some purposes).⁷²

Anderson rejects the influential notion that moral and political philosophy should justify a systematic set of fundamental and highly general principles that govern all or a great range of circumstances, including those very different from our own. She also challenges the reliability of *a priori* reasoning about cases that are distant from actual experience to establish these principles. Instead, Anderson argues that the vindication of normative judgments and principles depends on three things: (1) their capacity to solve the practical problems that we currently or will realistically face, (2) experiments in living in which the relevant views are put into practice such that their actual consequences and our moral intuitions in response to these consequences are revealed, and (3) in-depth empirical and causal analysis of our problems and their proposed solutions. In

⁷² I do not think that Anderson successfully deflects or addresses all the main cases in support of the necessity of ideal theory. For example, her position is that "[f]iguring out how to address a just claim on our conduct now does not require knowing what system of principles would settle all ... claims" as in ideal theory. This is compatible with a need for ideal theory to realize a fully just society, and it does not respond to Simmons's contention that ideal theory is required to know how to navigate conflicts between claims of justice. Nevertheless, since I have discussed these arguments in chapter 1, I will not look at Anderson's views about ideal theory separately. Anderson, *The Imperative of Integration*, 3–7.

addition, she holds (4) that we are not able to securely establish very general principles that apply to situations or problems substantially different from our more local concerns.

Although Anderson discusses her pragmatism in several places, I will argue that central parts of her view and how they relate to one another are significantly unclear and that some are mistaken and need revision.⁷³ My aim in this chapter is to defend a reconstructed pragmatist nonideal methodology that is centered on an experimental moral epistemology and that is more sensitive to the importance of unjust motivations and actions in moral justification. Sections 1-3 will reconstruct and assess various aspects of Anderson's pragmatism and how it is supposed to differ and be superior to other dominant approaches. Section 1 will consider Anderson's claim that pragmatism's conception of normative judgments as problem-solving tools means that it is only credible to justify principles to solve the practical problems we currently or will realistically encounter and that we can test our principles empirically. I will argue, in response, that the problem-solving function of normative judgments does not have either of these methodological implications. Instead I will contend in section 2, that the heart of Anderson's pragmatism is its experimental or empiricist moral epistemology. In particular, I will examine her epistemological principle that, "[f]rom a pragmatist point of view, the ultimate test of any moral view lies in experiments in living" or in the implementation of a moral position in practice in order to gain actual experience of its practical consequences and testing these consequences and thereby the

⁷³ Anderson's recent writing on pragmatism and moral epistemology include: Anderson, 3–7; "Dewey's Moral Philosophy," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, Spring 2014, 2014, <http://plato.stanford.edu/archives/spr2014/entries/dewey-moral/>; "Journeys of a Feminist Pragmatist," *Proceedings and Addresses of the American Philosophical Association* 88 (2014): 71–87; "Moral Bias and Corrective Practices," *Proceedings and Addresses of the American Philosophical Association* 89 (2015): 21–47; "Social Epistemology of Morality: Learning from the Forgotten History of the Abolition of Slavery," in *The Epistemic Life of Groups: Essays in the Epistemology of Collectives* (Oxford University Press, 2016), 75–94; "How to Be a Pragmatist," in *Oxford Handbook of Practical Reason*, ed. Ruth Chang and Kurt Sylvan (Oxford University Press, Forthcoming).

position against our moral intuitions.⁷⁴ After considering her arguments, I will support the claims that experiments in living (a) can provide better evidence and deliver better justified moral judgments than *a priori* methods, (b) that the empirical evidence they supply is necessary for justification and (c) that their evidence can be part of a sufficient justification apart from *a priori* methods, if certain epistemological conditions are fulfilled. Section 3 will discuss how Anderson thinks nonideal theory must be empirically realistic and incorporate rigorous causal analysis of existing problems and their solutions. While I will concur with many aspects of Anderson's stance, I will reject the idea that in justifying our duties we can discount the unwillingness of others to comply with requirements of justice. Instead, the unjust dispositions and actions of others are a necessary part of moral justification because they can affect agents' abilities, the availability of morally permissible routes, the costs of compliance with alleged duties, and the probabilities of success and risks of various courses of action. Lastly, in section 4, I will consider Tommie Shelby's objections that Anderson's pragmatism suffers from a status quo bias and a blindspot to the unjust advantages of a social system and that it marginalizes the agency of the victims of injustice. I will show that Shelby's objections do not, ultimately, apply to Anderson's nonideal methodology.

2.1 Pragmatism as Problem-Solving

According to Anderson, "[d]ominant methods" in analytic moral and political philosophy "suppose that we can use intuitions and *a priori* reasoning to discover fundamental principles of morality that are systematic—that ground and unify our [practical] deliberations across all or at

⁷⁴ Anderson, "How to Be a Pragmatist," 17.

least large domains of conduct.”⁷⁵ As we shall see, Anderson calls these *a priori* methods in the sense that they seek to justify moral judgments and principles independently of empirical evidence of their actual consequences in some of the circumstances they are meant to regulate (or in those that closely resemble them) and of our moral intuitions to those consequences. Empirical evidence is evidence that is obtained by actual experience or first-hand observation or by others’ testimony about their experiences. Hence, in contrast to *a priori* methods, empirical processes of justification adjudicate a moral view based on people’s experiences or observations of its actual consequences when it is realized in the circumstances it is expected to govern (or in those that closely resemble them) and of our moral intuitions to those consequences. These formulations of *a priori* and empirical methods represent two ends of a spectrum. Modes of justification can also be more or less *a priori* or empirical depending on the extent to which they involve people’s experiences of the actual consequences of a moral view and of their moral intuitions to them.

An example of the dominant approach is “[t]he method of reflective equilibrium,” which holds that “a judgment is justified to a person if it is part of a coherent, reflectively stable system of belief she holds, including (a) intuitions about particular cases; (b) intuitions about general principles; and (c) various background scientific and ideal [or moral] theories, including theories of the person, of moral development and human motivation, of social order, rational choice, and so forth.”⁷⁶ Each of these elements are used “to modify the others until we arrive at a set of

⁷⁵ For the most part, I will not assess the accuracy of Anderson’s characterization of the “dominant methods” but instead concentrate on reconstructing her positive view. Anderson, 2 emphasis added.

⁷⁶ Anderson, “Moral Bias and Corrective Practices,” 22; Elizabeth Anderson, *Value in Ethics and Economics*, 2. print (Cambridge, Mass.: Harvard Univ. Press, 1995), 111.

principles that accounts for our moral judgments in all particular cases.”⁷⁷ As it is (or may seem to be) practiced in contemporary moral and political philosophy, this method is *a priori* because it justifies principles apart from empirical evidence of their actual consequences in some of the circumstances in which they apply. For example, Rawls uses reflective equilibrium to establish the principles of a just society.⁷⁸ Even though he uses social scientific theories to predict the institutional and psychological ramifications of his principles, we do not and cannot have experience of or observe their actual consequences because we do not live in a society in which those principles are (nearly) realized.⁷⁹ If his principles are to be understood as being successfully justified without such empirical evidence, then Rawls (or some of his followers) hold that reflective equilibrium is adequate as an *a priori* method.⁸⁰ In addition, Rawls’s theory identifies (or is taken to identify) the first principles of justice for social institutions and individuals that are to guide not only current actions but also all our efforts up to the realization of complete distributive justice.⁸¹ To this extent, his theory is “illustrative of a common aspiration” in “contemporary moral philosophy ... [that] is to seek fundamental principles of morality that could,

⁷⁷ Anderson, “Moral Bias and Corrective Practices,” 22.

⁷⁸ Rawls, *A Theory of Justice*.

⁷⁹ This paragraph attempts to reconstruct Anderson’s view in a way that I think is more defensible. What she actually says about reflective equilibrium is: “Carried to its logical conclusion, this method can ... lead to moral principles for all possible worlds, as long as we entertain thought experiments about sufficiently bizarre cases to elicit intuitions against which to modify our general principles.” I am doubtful that the internal logic of reflective equilibrium leads it to establish such principles or to consider such cases. Anderson, “Moral Bias and Corrective Practices,” 22.

⁸⁰ I hedge this statement because it may be objected that Rawls thinks the justification for his principles in ideal theory is provisional and that he agrees that empirical evidence is needed to adequately support them. This may be true. My only purpose for bringing up this possible interpretation of Rawls is to setup a contrast against which we can understand Anderson’s method and to suggest how she might see herself as differing from those who use reflective equilibrium.

⁸¹ E.g. see the discussion in Ch. 1, §§3-6, 8.

in principle, settle all moral problems (at least of a particular structure—e.g., regarding saving lives, or distributing goods) in all [or a broad range of] circumstances.”⁸²

In contrast, “[p]ragmatist methods have more modest objectives” in that “they seek no more generality in normative principles than is required for the resolution of moral problems that we are (or realistically risk) confronting ... They also stress that practical principles are [to be] tested empirically, in practice.”⁸³ For example, Anderson supplies “a contextualized rationale” for “certain antidiscrimination norms of *limited* scope ... as useful tools for dismantling existing systematic group-based disadvantage,” instead of justifying principles “by seeking some key feature that makes an act of discrimination, considered in isolation, inherently wrong.”⁸⁴ In this and the next section, my goal is to understand and assess the pragmatist case for (1) only justifying the moral judgments or principles needed to resolve the moral problems we do or may realistically encounter and for (2) the importance of empirical processes of justification, which Anderson holds are the primary features that distinguish pragmatism from mainstream methodologies. Although Anderson’s pragmatism may have additional components (e.g. meta-ethical commitments) that set it apart from other approaches, I will only be interested in these parts of her view insofar as they are supposed to support the above two dimensions of pragmatist moral epistemology.

⁸² Rawls’s remarks about the “full conception of right” or “the full system of principles that would be chosen in the original position” and its “completeness” are relevant here. However, Rawls admits that he is not sure whether constructing a complete system of moral principles is feasible. For example, regarding how principles for individuals should be prioritized, he says that “I do not know how this problem is to be settled, or even whether a systematic solution formulating useful and practicable rules is possible.” Anderson, “Moral Bias and Corrective Practices,” 22; Rawls, *A Theory of Justice*, 298–301.

⁸³ Anderson, “How to Be a Pragmatist,” 3.

⁸⁴ Anderson, n. 4; Anderson, *The Imperative of Integration*, chaps. 7–8.

“The key to understanding pragmatist methods,” Anderson says, “is to consider the instrumental value of [normative and evaluative] judgments. We *use* them to guide our conduct and valuations of things. We formulate them in order to *solve practical problems*: to figure out what we should do, when we are uncertain about how to proceed but need to act; to change the ways we value certain things, when our current valuations have gotten us into trouble, or to figure out how to value a novel object.”⁸⁵ Thus, Anderson follows John Dewey in conceiving these judgments as *tools* whose success, rightness or truth consists in whether using them as guides for belief, feelings, or action would satisfy our (sound) intellectual, evaluative, and normative aims.⁸⁶ According to this perspective, part of the truth and adequacy of a normative view is whether it should be believed and used by a person as a guide to action.⁸⁷ For this reason, it is incompatible with the view that the sole purpose of a normative theory is to provide a theoretical account of right or good and wrong or bad action. On this latter account, it is possible, as Derek Parfit argues, that the true normative theory is “self-effacing” or should not be believed in order that people bring

⁸⁵ Anderson, “How to Be a Pragmatist,” 6.

⁸⁶ Dewey: “Any belief as such is tentative, hypothetical: it ... is *framed* with reference to its office as a guide to action ... it is apprehended as a tool and only a tool, an instrumentality of direction.” What does this practical function of beliefs amount to? Does it exclude wanting to understand for itself? Philip Kitcher maintains that Dewey “[n]ever doubted that issues of clarification are important for their own sakes ... [and] recognized that there are forms of inquiry whose aims are purely explanatory.” Instead, he argues that Dewey’s view is that “[s]uccess accrues not by discovering truths, but by answering the questions that matter.” Kitcher then proposes a criterion for determining which goals, problems or questions are more significant on Dewey’s behalf. John Dewey, *The Collected Works of John Dewey. [...] Vol. 4: The Later Works, 1925 - 1953* 1929: [*The Quest for Certainty*], ed. Jo Ann Boydston (Carbondale: Southern Illinois Univ. Press, 2008), 221; Philip Kitcher, *Preludes to Pragmatism: Toward a Reconstruction of Philosophy* (New York: Oxford University Press, 2012), 6–11.

⁸⁷ There are many interesting and complex questions about what it means for a moral theory to be usable and why or why not usability should be a feature of an adequate moral theory that are beyond the scope of this chapter. For an extensive discussion of these matters, see Holly M. Smith, *Making Morality Work* (New York, NY: Oxford University Press, 2018).

about the results it holds are right or desirable.⁸⁸ In contrast, pragmatists reject “driv[ing] a sharp wedge between the truth and usefulness of [evaluative and normative] judgments.”⁸⁹

One kind of concern that judgments are meant to address are called “problems,” which I propose we may generally characterize as those features of states of affairs, actions, or beliefs that someone should or that it would be better to remove, alleviate or change. For nonideal theory, the central problems are to justify and discern what are our duties of justice in particular unjust circumstances and to comply with them if we are not. In addition, nonideal theory seeks to identify unjust conduct and states of affairs, which are problems in the sense that have *prima facie* (if not conclusive) duties to remove them. Insofar as the function of a judgment or view is to solve a certain problem, it is subject to a “contextualist” and “problem-centered” moral epistemology, in which its “standards of success are defined contextually, in terms of the problem to be solved.”⁹⁰ Hence, “[t]he test of a [normative] judgment – whether it ‘works’ – is whether [applying it would] successfully identif[y] an action” that would “solve[] the problem encountered in this situation.”⁹¹

Although treating moral views as problem-solving tools is illuminating, I do not think that it means (1) that we should only justify judgments or principles for the moral problems we currently or may realistically face or (2) that empirical methods are significant or even available. First, let us investigate the notion of a “problem.” A problem is not simply anything that existing

⁸⁸ Derek Parfit, *Reasons and Persons* (Oxford: Clarendon, 1992), 23–24.

⁸⁹ Although I cannot adjudicate this debate here, I highlight these differences to situate Anderson’s pragmatism in relation to contrasting views. Anderson, “How to Be a Pragmatist,” n. 9; Anderson criticizes the view that a true normative account might be self-effacing in Elizabeth Anderson, “John Stuart Mill and Experiments in Living,” *Ethics* 102, no. 1 (1991): 4–26.

⁹⁰ Anderson, “Dewey’s Moral Philosophy,” sec. 2.5; Anderson, “How to Be a Pragmatist,” 18.

⁹¹ Anderson, “Dewey’s Moral Philosophy,” sec. 2.5.

people feel or believe ought to be or it would be better to eliminate, lessen, or alter. Anderson is committed to a distinction between genuine problems and what people sense or take to be problems. For instance, she says that we can discover that we “misconceived the problem [and] that our proposed solution was confused or incoherent,” which implies that the nature of a problem and its solution is independent from what we happen to believe about them.⁹² Furthermore, she holds that “the articulation of problems is dependent on [the normative content] of [moral] ideals,” values, or principles that explain why problems are wrong or undesirable and how to respond to them.⁹³ For example, Anderson’s argument for racial integration as an imperative of justice uses a contractualist framework and several principles of social equality to explain and to identify unjust actions, distributions and states of affairs and our responsibilities to ameliorate them.⁹⁴ In this respect, her method is not different than that of many theories of justice that seek to establish moral values and principles in order to discern unjust conduct and conditions and to serve as practical guides that tell us what our obligations in relation to injustices are. Moreover, in principle, we could have a universal principle or set of principles which provides people with an answer about how to act in every circumstances. Act-utilitarianism is a theory of this form.⁹⁵ Therefore, that moral judgments and principles are problem-solving devices does not mean that we have to restrict ourselves to justifying principles for the moral problems that we actually or may realistically

⁹² Anderson, *The Imperative of Integration*, 7; Cf. Anderson, “Dewey’s Moral Philosophy,” sec. 2.5; Anderson, “How to Be a Pragmatist,” 18.

⁹³ Elizabeth Anderson, “Reply to Critics of The Imperative of Integration,” *Political Studies Review* 12, no. 3 (2014): 378.

⁹⁴ Anderson, *The Imperative of Integration*, 16–22, 67–134.

⁹⁵ Of course, there may be additional questions about how to apply such principles in different cases.

confront. It is entirely compatible with the problem-solving function of moral views to adopt the ambition that Anderson attributes to the dominant approaches in moral and political philosophy and be interested in finding highly general principles that solve all moral problems or all those in a very wide range of circumstances.

Nevertheless, Anderson argues that “[o]nce we view [normative] judgments as problem-solving tools, we have ... reason to doubt the aspiration of the dominant methods of normative philosophy.⁹⁶ Given that the specific characteristics of moral problems “are rooted in empirical [i.e. non-normative or descriptive] realities that differ across societies and ages, there is no particular reason to think that there is any single [set of] fundamental moral tool[s] that would settle all our [problems], or even all [problems] of a particular structure, everywhere. That is no more plausible than to suppose that there is one ultimate tool that will perform every task needed to build a shelter, no matter the climate, economic, and social conditions.”⁹⁷ Unfortunately, this reasoning is unpersuasive because it may be that we can explain the moral significance of the non-normative facts and the specific moral problems of a broad range of circumstances in terms of more fundamental values or principles. If we are able to do this, then we would have moral principles that could serve as practical guides in all these situations even though their application may vary significantly depending on the particular facts of each case. It may be that we cannot justify such fundamental and general principles for other reasons. The current point is that the position that moral judgments are for problem-solving and the non-normative and moral variety of different circumstances does not imply that we cannot. In addition, even if it is true that are no

⁹⁶ Anderson, “How to Be a Pragmatist,” n. 8.

⁹⁷ Anderson, “Moral Bias and Corrective Practices,” 23.

highly general moral principles, this does not mean that we could not identify different values and principles for various circumstances separately, including those very dissimilar to our own. Hence, we would need additional support, apart from the lack of highly general principles, to secure the claim that we should justify moral views exclusively for the moral problems we currently or may realistically face.

Anderson also contends that “[b]ecause we use [normative and evaluative] judgments to solve practical problems, such judgments are subject to empirical testing: we can see whether these judgments actually help us solve the problem we are using them to solve. Practical judgments or policies imply hypotheticals of (roughly) the form: ‘adhering to principle x (in conduct or deliberation) will help solve or ameliorate problem y.’ If such hypotheticals fail when [the principles are implemented and] tested in their expected contexts, we can [know the judgment is mistaken and] investigate what went wrong with our judgment-forming process.”⁹⁸ Hence, it may be suggested that the instrumental value of moral views for solving problems means that we can (and should) empirically assess them.

We will discuss how moral judgments are empirically tested in detail in the next section. For now it is sufficient to recall that empirical methods are based on empirical evidence of a moral view’s actual consequences and of people’s moral intuitions to them, which is made available by realizing the view in the circumstances to which it applies. Based on this characterization, we can see that the problem-solving role of moral judgments does not imply that we can use empirical processes to test them. If we want to justify principles that regulate all circumstances or situations very different from our own, then it will not be possible to implement them and gain empirical

⁹⁸ Anderson, “How to Be a Pragmatist,” 6; Cf. Anderson, *The Imperative of Integration*, 7.

evidence of their consequences or people's intuitions to them in all the contexts the principles are meant to govern. The best we would be able to do is to construct theoretical models that predict the consequences of these principles in different situations and to use people's moral intuitions in response to those projected consequences. We have not yet been given adequate reason to think that these types of principles could not be justified. Moreover, even for moral judgments we are able to empirically assess, we still need to know why empirical methods are important or better in comparison to *a priori* modes of justification. I will examine these issues shortly. The main conclusion of this section is that, contrary to what Anderson says, it does not seem that "[t]he key to understanding pragmatist methods" and how they differ from dominant approaches "is the instrumental value of [moral] judgments" for solving moral problems.⁹⁹ Pragmatism needs other grounds to only justify principles for the moral concerns we are or realistically risk encountering and to emphasize the significance of empirical testing.

2.2 Pragmatism and Experiments in Living

In my view, the heart of Anderson's pragmatism is the importance it gives to certain experimental or empiricist processes of justification. The central pragmatist method for justifying or improving our moral judgments are *experiments in living*, in which "[w]e test our judgments by living in accordance with them and seeing whether they solve the problem we are trying to solve, with acceptable side-effects."¹⁰⁰ Anderson states that "[f]rom a pragmatist point of view, the *ultimate test* of any moral view lies in experiments in living."¹⁰¹ We can distinguish several ways

⁹⁹ Anderson, "How to Be a Pragmatist," 6.

¹⁰⁰ Anderson, 6–7.

¹⁰¹ Anderson, 16 emphasis added.

in which experiments in living are meant to be the “ultimate test.” For example, she says that experiments in living (a) supply “more accurate information” than *a priori* reasoning, (b) that the “vindication of any ideal must be found in the experiences of those who live according to it – not in *a priori* argument,” and that experiments in living (c) can secure “vindication.”¹⁰² In this section, I will defend reconstructed versions of these three claims that Anderson makes about experiments in living. I will also argue that the significance of these claims for our actual practice of moral justification is limited because of the difficulty or impermissibility of conducting experiments in living.

Anderson contrasts experiments in living to certain *a priori* modes of justification that she says dominant approaches rely upon. As I have mentioned, these methods are *a priori* insofar as they do not justify a moral view based on empirical evidence of its actual consequences in the circumstances that it is supposed to govern (or in very similar situations) and of people’s intuitions to those consequences. First, there is *a priori* “[d]eliberation,” which “is a kind of thought experiment undertaken by an agent who ... entertains various courses of action, imagines the expected consequences of those actions, and simulates her normative reactions [or intuitions] to these actions and their consequences ... with the intention to act as her normative intuitions direct.”¹⁰³ Normative or evaluative “intuitions” are “feelings or ideas about what one ought to do, or how one ought to feel, or what is a reason for or against doing or feeling something.”¹⁰⁴ These intuitions, feelings, or experiences are not beliefs or judgments and they do not always coincide

¹⁰² Anderson, 7, 16; Anderson, “Reply to Critics,” 379.

¹⁰³ These comments are about “ordinary deliberation,” but it is clear that Anderson’s interest is in the more *a priori* cases. Anderson, “How to Be a Pragmatist,” 3.

¹⁰⁴ Anderson, 2.

with our beliefs—“it is quite possible to judge one way about what is good [or right], but to feel quite differently about it.”¹⁰⁵ As stated, this is an overly narrow conception of deliberation because it does not include any role for explicit reasoning, conceptual clarification or innovation, or highly developed scientific or moral theories. However, Anderson means to cover “the most thoughtful deliberation” and we have seen that reflective equilibrium is a paradigm of the prevailing methods, so let us assume that she means to encompass all of these elements as well.¹⁰⁶ Second, there are *a priori* philosophical “thought experiments such as the famous trolley cases” that similarly “forecast the consequences of various actions” and “elicit intuitions [but] *without* any intention to act as they direct.... Moreover, they are further removed from experience than ordinary deliberation. To ensure that principles arrived at could be true in all possible worlds [or in a very wide range of cases], the dominant philosophical methodology dictates that we entertain thought experiments about bizarre [or very unfamiliar] cases distant from prior experience, and work up principles that can encompass all our intuitions for all [these] cases.”¹⁰⁷

The problem with *a priori* methods is that we know from historical experience that even at their best, they are often mistaken. “No one supposes,” Anderson says, “that actual [*a priori*] deliberation [reliably] leads to non-trivial necessary [or highly general] truths. Often enough, even when we act on the most thoughtful deliberation, we end up doing something we regret.”¹⁰⁸ Moreover, “[i]ntuitions elicited in philosophical thought experiments ... can hardly be more

¹⁰⁵ Anderson, “John Stuart Mill and Experiments in Living,” 26.

¹⁰⁶ Anderson, “How to Be a Pragmatist,” 4.

¹⁰⁷ Anderson, 3–4.

¹⁰⁸ Anderson, 4.

reliable than actual deliberation. It is subject to the same [and worse] errors.”¹⁰⁹ There are two main sources of error. First, for circumstances substantially different than those we understand through experience, it is very difficult reliably to predict the *non-normative or descriptive* consequences of our actions or of moral judgments and principles. This is especially the case when we are theorizing about complex social systems with numerous causal relations that are hard to model with much accuracy as we consider states of affairs increasingly remote from those in the present and past that we understand well. Therefore, even if a certain course of action or principle seems correct after *a priori* reflection, we may very well discover that it is wrong because we failed to accurately predict its descriptive consequences. Second, for states of affairs distant from those with which we have experience, our predictions about our moral intuitions are inaccurate. “[W]e are not very good,” Anderson argues, “at forecasting our feelings about not-yet-experienced states ... The history of politics is littered with attempts to realize imagined utopias that turned out badly, not just because of unforeseen consequences, but because anticipated consequences that people imagined would be wonderful were experienced as horrible in real life.”¹¹⁰ The assumption seems to be that certain moral intuitions we have in response to actually experiencing the consequences of our actions or views are much more sensitive to their moral features and implications than the intuitions we have *a priori*, which are often seriously mistaken. Hence, moral intuitions formed apart from the input of direct experience of the consequences of our actions or judgments are unreliable guides to right action. These ideas establish Anderson’s primary critical position, which I express as follows:

¹⁰⁹ Anderson, 4.

¹¹⁰ Anderson, “Reply to Critics,” 379.

Inadequacy of the A Priori: *A priori* methods are inadequate for justifying moral judgments and principles because they are not based on empirical evidence of the descriptive and normative consequences of realizing those judgments or principles in some of the circumstances they are meant to regulate.

The insufficiency of *a priori* modes of justification is an important part of Anderson's view because it means that more empirical processes may be necessary. If *a priori* reflection were adequate, then we would not need empirical methods, even if the evidence they supply is helpful or superior. While it may be that we should still seek out and use such empirical data, Anderson's pragmatism would not contain as deep of a critique of *a priori* approaches. Importantly, however, her criticism presupposes the reliability of certain sources of empirical evidence, which show that the non-normative and normative deliverances of *a priori* methods are inaccurate. So we need to take a closer look at the primary method she favors, experiments in living, to understand her negative and positive epistemological views.

I propose that we start with a relatively minimal characterization of experiments in living:

Experiments in Living: Processes or states of affairs in which a moral view is or was realized such that, in principle, we can obtain empirical evidence about its actual consequences (e.g. the actions it entails and their effects) and people's moral intuitions in response to those consequences.

This formulation is different than the one Anderson gives in some places because it does not state that or how we “test” or assess a moral view in or based on experiments in living. Since this will be a central issue in what follows, it is better to start with a conception of experiments in living that does not specify the way in which a moral view is adjudicated. In addition, my formulation does not require that someone intentionally experiment and “put into practice” or “live in accordance with” a moral judgment or principle in order to discover its consequences and how we morally respond to them.¹¹¹ It is enough that a certain moral view is implemented such that we can have empirical evidence of its actual consequences and of people’s moral intuitions to them. For example, Anderson describes black Americans in “[t]he Civil Rights Movement [as] put[ting] the value judgments and practical precepts of white[] [Americans] regarding ... their supremacy over black[] [people], conceived as an alien and inferior race ... to the test in [the] Birmingham [demonstrations] in 1963 ... teaching white[] [Americans] that they would no longer put up with such treatment.”¹¹² The view that white people are superior to black people was realized in the institutions and the social fabric of the United States, but this was not done in order to assess its validity. Nevertheless, that racist perspective was part of an experiment in living in the above sense because it was socially realized with the result that people had direct experience of its practical consequences and of people’s moral intuitions to them, especially black protestors’ strong moral

¹¹¹ Cf. Anderson, “How to Be a Pragmatist,” 6–7.

¹¹² Anderson, *The Imperative of Integration*, 96.

feelings and convictions against institutionalized white supremacy.¹¹³ With these remarks in the background, let us turn to what Anderson says about the merits of experiments in living.

“Conclusions drawn from actual experiments in living,” according to Anderson, “are more reliable than those drawn from [*a priori*] deliberation or ... [*a priori*] philosophical thought experiments, because they are based on more accurate information—about the actual consequences of actions, and our actual normative reactions [i.e. intuitions] to those actions and their consequences.”¹¹⁴ It is not clear exactly how Anderson conceives conclusions being “drawn from” experiments in living. Sometimes she seems to describe people’s intuitions to the actual consequences of a moral view as being the final standard of assessment just as the observable events of the natural world are for scientific hypotheses.

We test scientific hypotheses by bringing about their antecedents and seeing if the results are as they predicted. Similarly, we test value judgments by acting on them and seeing if we value the consequences in the way the judgment predicted. Acting on our value judgments — putting them into practice — supplies the data for confirming or disconfirming them. Roughly speaking, a value judgment hypothesizes “try it, you’ll like it [or feel that it is right]” — a statement easily subject to empirical verification and refutation.¹¹⁵

¹¹³ Anderson explicitly credits Dewey and his view that “practical intelligence is the application of experimental methods to value judgments and practical precepts” for her perspective on the 1963 Birmingham demonstrations. Anderson, 95–97.

¹¹⁴ Anderson, “How to Be a Pragmatist,” 7.

¹¹⁵ Anderson, “Dewey’s Moral Philosophy,” sec. 2.4; Anderson, “How to Be a Pragmatist,” n. 8.

This passage suggests the claim that moral judgments formed on the basis of empirical evidence made available by experiments in living are better justified than those generated by *a priori* methods because (a) we are able directly to observe the actual non-normative or descriptive consequences of a moral view and (b) people's moral intuitions to those consequences are reliable indicators of the relevant moral considerations and the view's validity. Although I think Anderson's considered position is much more sophisticated, I will examine this claim because its shortcomings are instructive.

The above conception of how experiments in living lead to better justified moral views is far too simple and significantly belies the complexity of making justified moral judgments based on descriptive and moral empirical data. For example, in the physical and social sciences, the accuracy of empirical evidence is dependent on the processes by which it is gained. Interview and survey questions may be poorly designed so that their answers do not accurately reflect people's beliefs or their sense of how their interests are affected by various social policies and enacted moral views. Conversely, respondents may be prone to self-deception or to deceiving their questioners providing the answers that they think match others' desires or public opinion rather than what really portrays their perspective or moral feelings. In addition, even if the basic empirical information is sound, it may not lead to true or justified descriptive generalizations if our reasoning is defective. More fundamentally, descriptive hypotheses and claims are underdetermined by available empirical data, and the construction of descriptive theories is guided by non-empirical criteria such as simplicity, generality of explanation, and the extent to which the theory is

consistent with or will allow us to conserve existing beliefs.¹¹⁶ Hence, the descriptive implications we draw from the empirical data supplied by experiments in living will depend on the weight we give to these values and the purposes we hope the theory will serve.¹¹⁷ The significance of the underdetermination of descriptive views by empirical evidence can be seen in that how we interpret available empirical data can be affected by the descriptive and moral theories we hold and their deficiencies. For example, whether observers count certain phenomena as relevant or analyze them as belonging to certain kinds often depends on their background conceptual and theoretical frameworks. Even a seemingly simple matter such as identifying what counts as a moral intuition is implicated in disagreements between Kantian and non-Kantians on the moral status of emotions.¹¹⁸ Likewise, Anderson argues that the concepts of “racism” and “racial discrimination” are too crude to capture all the morally significant kinds of racial injustices and to enable us to make the moral evaluations that are appropriate to each of them.¹¹⁹ Therefore, our existing descriptive and moral beliefs and accepting theories that are consistent with them or that enable us to maximize their conservation may prevent us from properly understanding available empirical evidence and lead us to draw false beliefs. Since empirical evidence and the processes by which it

¹¹⁶ W. V. O. Quine and J. S. Ullian, *The Web of Belief*, 2. ed (New York NY: McGraw-Hill, 1978), 64–82; Michele M. Moody-Adams, *Fieldwork in Familiar Places: Morality, Culture, and Philosophy* (Cambridge, Mass. London: Harvard University Press, 2002), 29; Owen Flanagan, “Pragmatism, Ethics, and Correspondence Truth: Response to Gibson and Quine,” *Ethics* 98, no. 3 (1988): 542–43.

¹¹⁷ Similarly, Anderson says that we should not “jump to the conclusion that truth is the only or ultimate cognitive aim of science. Many scientific theories sacrifice accuracy for simplicity, ease of cognition, computational tractability, or susceptibility to empirical testing. Idealization, which by definition are not strictly true, are ubiquitous in science.” These remarks suggest that her full view of experimental testing is considerably more complex than it sometimes appears. Anderson, “How to Be a Pragmatist,” n. 1.

¹¹⁸ Cf. Moody-Adams, *Fieldwork in Familiar Places*, 30.

¹¹⁹ Anderson, *The Imperative of Integration*, 4–5.

is interpreted and inferences are drawn from it can be inaccurate, theoretically myopic, and mistaken in these ways, it is not true that moral judgments made using empirical evidence of the actual descriptive consequences of a moral view are always better justified than the conclusions of *a priori* processes.

Similar complexities apply to people's moral intuitions in response to the actual consequences of a moral view. These intuitions are important because they are meant to be superior pieces of *moral* "evidence of the presence of values and reasons" or of the "normative considerations" relevant to assessing a moral view than our *a priori* intuitions.¹²⁰ It is clear that intuitions disclosed by experiments in living *can* be more reliable because they might be responding to better descriptive information and they may be sensitive to certain moral values or reasons that were not palpable in abstract reflection. However, it is not true that *all* our intuitions to the actual consequences of a moral view are more credible than their *a priori* counterparts. For example, suppose that experiments in living reveal that the actual consequences of a principle of justice include a much higher than anticipated tax rate for oneself or one's identity group. This knowledge might trigger certain biases of self- or group-interest that distort our moral intuitions about the acceptability of the principle and may even interfere with a proper descriptive understanding of the relevant social scientific facts leading to ideological interpretations or irrational disbelief. In this case, it may be that *a priori* or less empirically informed intuitions may generate better justified judgments because they would not activate these cognitive biases that inhibit us from appreciating the import of certain moral and descriptive facts.¹²¹ Moreover,

¹²⁰ Anderson, "How to Be a Pragmatist," n. 7.

¹²¹ Anderson discusses at length how attention to the findings of cognitive science about cognitive biases and how to counteract them are another element of her pragmatism. However, she subordinates the importance of bias correction to experiments in living: "While bias-reduction helps achieve greater moral clarity, it does not guarantee sound

intuitions that are genuinely responsive to moral considerations may not lead to better justified judgments because we may not correctly weigh them against conflicting intuitions or reason poorly about their moral implications. Furthermore, as with descriptive hypotheses, moral claims and theories are underdetermined by available empirical evidence such as moral intuitions and choosing which moral view to accept is affected by other criteria such as consistency with and the conservation of existing beliefs. However, as mentioned in the previous paragraph, we may have erroneous or conceptually myopic moral and social scientific theories about which phenomena are morally relevant and their natures. This can lead us to discount (or include) some phenomena as significant which we should not and to conflate different kinds of things that should be distinguished. Unconsciously or upon reflection, these false or confused beliefs may override veridical intuitions or cause us to have moral feelings that are disproportionate to the (dis)value of certain wrongful, innocent, or just actions or states of affairs. For example, luck and relational egalitarians have different conceptions about when inequalities in social goods or well-being are unjust, and these may influence their moral intuitions and which ones they accept. For all these reasons, it is false that moral judgments reached on the basis of people's moral intuitions to the actual consequences of a moral view are guaranteed to be better justified than the deliverances of *a priori* methods.

What my analysis shows is that the absolute and relative credibility of moral judgments that are formed on the basis of empirical evidence are dependent on several epistemological conditions regarding whether the evidence is accurate and whether we adequately recognize its

conclusions. From a pragmatist point of view, the ultimate test of any moral view lies in experiments in living." In contrast, my argument demonstrates that experiments in living require a certain lack of bias in order to be a successful method. Anderson, 16; Anderson, "Moral Bias and Corrective Practices"; Anderson, "Social Epistemology of Morality: Learning from the Forgotten History of the Abolition of Slavery."

significance and implications. This means that we have to adopt a more nuanced perspective on the relationship between experiments in living and moral justification. Instead of the claim that conclusions using the empirical evidence of experiments of living are better justified than those formed through *a priori* methods, I propose the following more modest principles.

Experimental Availability: The realization of a moral view in experiments in living makes certain descriptive and normative facts salient to the view's justification *empirically available*, though this does not imply that such facts or their implications will be properly appreciated (e.g. by our moral intuitions) and lead to better justification.

Experimental Credibility: Moral judgments made on the basis of the empirical evidence provided by experiments in living are better justified than the deliverances of *a priori* methods alone if the evidence is sufficiently accurate and its implications are adequately recognized.

In addition, from the facts that *a priori* methods are inadequate, that experiments in living are the only other source of evidence, and that we require evidence, we have:

Experimental Necessity: Experiments in living of moral views and the empirical evidence they supply are necessary for the justification of those views.¹²²

¹²² Cf. "Arguments, at best, make certain value judgments plausible as hypotheses – and even then, *only if* grounded in experience and reflection on the wider consequences of acting on them. Ultimately, the hypotheses *must* be tested, by seeing how one values the actual results of putting them into practice." Anderson, "Dewey's Moral Philosophy," sec. 2.4.

A more challenging matter is to identify how experiments in living relate to sufficient justification. So far the discussion indicates that adequate justification of a moral view for an agent involves empirical evidence provided by experiments in living, that such evidence is sufficiently accurate, and that its implications are adequately recognized. Furthermore, similar to the physical and social sciences, a single experiment in living may not be enough to establish the descriptive or normative consequences of a moral judgment or to provide sufficient inductive support for moral justification.¹²³ Hence, we also require a satisfactory number of properly conducted experimental tests, which are diverse enough to test for different experimental variables. The above epistemological desiderata are expressed in Anderson's example of the evaluative expertise of a connoisseur, even though it is not about moral judgment: "The novice and the connoisseur may both value (like) the same object. But the latter has a reflective and articulate grasp of the features of the object that are liked, plus enough experience with valuations of objects of that type to have warranted confidence that these features merit liking. That is, the connoisseur has enough experience to warrant confidence that there are not further features of the object or consequences of valuing it which, once appreciated, would reverse or detract from the liking."¹²⁴

However, we still have to incorporate the above conditions about experiments in living into a larger account of moral justification. This is because, as Anderson says, "[e]vidence is always defeasible," and we can "rationally dismiss" the empirical evidence (e.g. people's moral intuitions)

¹²³ Anderson discusses this issue in relation to the objection that Mill's "one experiment (his own life)" is not sufficient grounds to reject Bentham's conception of the good and to establish his own. Anderson, "John Stuart Mill and Experiments in Living," 25.

¹²⁴ Anderson, "Dewey's Moral Philosophy," sec. 2.2.

as the result of our justified “reflective judgments.”¹²⁵ According to Anderson “judgments [are] ... justified and objective when they are reflectively endorsable from a common point of view in [a certain kind of] normative discussion.”¹²⁶ As this statement indicates, her conception of moral justification and objectivity contains constructivist elements, which I cannot discuss here. However, the features of the relevant normative discussion are largely epistemological values that find widespread acceptance. For example, the discussion identifies the appropriate moral standards because it eliminates or minimizes “defects such as inconsistency, ignorance, partiality, confusion, double standards, insensitivity, or pragmatic self-defeat.”¹²⁷ In addition, parties to the justificatory process are to be appropriately responsive to the views and “intuitions of more experienced, wise, reflective, and virtuous people” in order to correct those of her “attitudes” that may be “poorly developed as a result of inexperience, defective character, neuroses, or other problems.”¹²⁸ The main point that we need to keep in mind for our purposes is that the empirical evidence provided by experiments in living about a moral view will be part of an adequate justification for that view only if it is justified by a larger process of justification with epistemological virtues like these. Nevertheless, our discussion enriches our general understanding of moral justification by showing that experiments in living have a necessary and important place in justifying moral views.

In addition, we can also say that if we have a satisfactory and accurate pool of empirical evidence about a moral view from multiple and diverse experiments in living, we sufficiently

¹²⁵ Anderson, “How to Be a Pragmatist,” n. 7.

¹²⁶ Anderson, *Value in Ethics and Economics*, 94.

¹²⁷ Anderson, 94.

¹²⁸ Anderson, 111.

recognize the implications of that evidence, and the other conditions of sound reasoning are fulfilled, then we would not need additional inductive support from *a priori* methods in order to justify (or disqualify) that view. While Anderson may not explicitly state that *a priori* reasoning can be unnecessary, she seems committed to that claim when she holds that certain experiments in living secure “vindication” for certain moral views.¹²⁹ Hence, we can express another principle of Anderson’s pragmatism as follows:

Experimental Adequacy: A satisfactory amount of diverse and properly implemented experiments in living of a moral view can supply enough empirical evidence to justify (or undermine) that view for an agent apart from *a priori* reflection, if that evidence is sufficiently accurate, she adequately recognizes its implications, and her reasoning meets other epistemological conditions conducive to making sound judgments.

I hope that the various principles that I have reconstructed about experiments in living and moral justification accurately represent important parts of Anderson’s pragmatism in their best form. I would like to close this section by reflecting on their wider relevance for moral and political philosophy and on how they relate to pragmatism’s focus on our current problems or those we may realistically face. Although I find the principles about the inadequacy of *a priori* methods and the necessity and adequacy of experiments in living and their reasoning persuasive, they also reveal certain limits to our powers of moral justification. The reason is that it is often not feasible or morally permissible to rigorously test moral judgments in experiments in living by putting them

¹²⁹ Anderson, “How to Be a Pragmatist,” 16–17; Anderson, *The Imperative of Integration*, sec. 5.4.

into practice even in present circumstances. This is especially the case for social or political principles, which have extensive practical consequences, are costly to implement and require the cooperation of many individuals and institutions. I am not suggesting that we can never have enough experimental data for justification (e.g. as Anderson argues that we do for justifying an imperative of racial integration). However, to the significant extent that we do not, it follows from pragmatist moral epistemology that we are not able to justify the relevant principles. When the empirical evidence that we have is lacking, we have no choice but to follow the moral views or principles that are best supported by all the available evidence and sound reflection.

Therefore, it is the principle of experimental credibility, which says that our judgments are *better* justified if they are based on the empirical evidence provided by experiments in living (if that evidence is accurate and its implications are adequately taken into account) that is often the most practically relevant to our actual efforts in figuring out which course of action to take or which view or principle to realize. This principle entails that we should use and seek out more of the empirical evidence of experiments in living (if possible, permissible and sufficiently likely to be effective and valuable), even if what we have or can obtain is not enough for justification. Similarly, deficits of empirical evidence mean that there may still be a substantial role for *a priori* methods, such as thought experiments, in our moral reasoning, as long as they are not about situations too drastically different from what we know. As long as our *a priori* theoretical extrapolations in social science and moral and political philosophy are not equally or less reliable than not reasoning at all or flipping a coin, then it may be best to follow their guidance to make up for the lack of more empirically-based direction.

The experimental moral epistemology of pragmatism also partially supports a restriction to justifying principles for “moral problems that we are (or realistically risk) confronting.”¹³⁰ It is more plausible to think that we can establish principles for solving these problems because they are the ones we are best able to justify using experiments in living conducted in our own circumstances or those similar to them. In contrast, we cannot observe the outcomes of experiments in living of a moral view that is meant to regulate very different circumstances because we are not able to apply that view in the relevant situations or in those that closely resemble them.

Notice, however, that the basis of the restriction to justifying principles for contemporary circumstances is entirely evidential and that in principle, we can have enough empirical evidence to establish principles for problems that are not or will not realistically become ours. For example, there may be problems that we have solved in the past and are very unlikely to encounter again. Yet, there may be nothing epistemologically amiss about justifying principles to remove those problems because we have sufficient evidence from past experiments in living and the testimony of others. Likewise, there may be problems that would exist in situations that are only modestly different than those we have encountered and understand but which are nevertheless quite improbable. In such cases, the empirical evidence we do have may be sufficient to justify moral judgments or principles for these unlikely problems and these conclusions may have enough epistemological merit to be incorporated into our reasoning about problems we do or are likely to encounter.

¹³⁰ Anderson, “How to Be a Pragmatist,” 3.

Moreover, as I argued above, we may lack adequate empirical evidence to justify a solution to our problems and the best way for us to decide which course of action or moral view to realize may involve the using *a priori* methods. For these reasons, pragmatism's empiricist epistemology entails that, given other epistemological conditions, the solutions to contemporary problems that we identify by experiments in living enjoy more justificatory weight than those drawn from *a priori* methods alone, but it does not imply that we cannot justify principles for solving problems that are not or will not realistically become ours or that we can dispense with *a priori* methods in moral justification.

2.3 Empirical Realism and Unjust Dispositions and Conduct

Another “central methodological theme” of Anderson’s pragmatism is the claim that “social and political philosophy needs to be grounded in an empirically adequate understanding of the problems we face and the effects of proposed solutions to these problems.”¹³¹ First, she argues that “we need to tailor our principles to the motivational and cognitive capacities of human beings.”¹³² On the one hand, this expresses the condition that requirements or principles of justice are valid only if they are within the abilities of the agent. “Valid claims of justice,” Anderson says, “must be addressed to agents who are in a position to make things right—or at least better. If what is demanded of them is impossible, then the claim is invalid.”¹³³ For example, she cautions that “[p]olitical philosophy should ... construct remedies that are attentive to empirical constraints, including the limitations of human psychology. We are not nearly as rational, self-aware, and self-

¹³¹ Anderson, *The Imperative of Integration*, 180.

¹³² Anderson, 3.

¹³³ Anderson, 75.

controlled as we imagine ourselves to be. Normative recommendations must take these limitations into account, lest they prescribe standards that are impossible for people to meet.”¹³⁴ On the other hand, it means that actual human beings’ motivations and cognitive processes, “with all our limitations and flaws,” are facts that nonideal theory needs to take into account in order to discover how to achieve a more just world.¹³⁵ “Just institutions,” for example, “must be designed to block, work around, or cancel out our motivational and cognitive deficiencies, to harness our nonmoral motives to moral ends, to make up for each other’s limitations by pooling our knowledge and wills.”¹³⁶ Second, Anderson maintains that we require “a detailed empirical investigation of the underlying causes of [our problems] ... [in order to avoid] missing out on more fundamental and complex diagnoses ... and hence [to avoid] missing out on genuine solutions.”¹³⁷ For example, it is inadequate to bypass these in-depth empirical studies and to suppose that we can fix our problems by minimizing the differences between an ideal society and ours. She argues that even if a multiculturalist vision of a just society in which some racial groups live in segregated communities without being unjustly disadvantaged is true, that does not mean that we can fix existing racial injustice by maintaining segregation and moving resources to people. It may be that entering relationships with the members of more advantaged racial groups is necessary to correct unjust inequalities and that those relationships can only be formed to the extent required through

¹³⁴ Anderson, 190.

¹³⁵ Anderson, 4.

¹³⁶ Anderson, 4.

¹³⁷ Anderson, 4.

racial integration.¹³⁸ In addition, to understand our problems we may “need to draw distinctions—for instance, among racial stereotyping, racism, and racial injustice ..., among different racial concepts ..., and among different types of discrimination ‘on the basis of race,’ ... [which would mean that] we must reconsider whether the evaluations we adopted toward phenomena falling under the incoherently lumpy concepts (e.g., ‘racism’ and ‘racial discrimination’) make any sense as applied to the newly distinguished phenomena.”¹³⁹ Third, we need to consider how burdensome various ways of realizing the solutions to our problems are and whether they are too costly for some people to be required by justice. Anderson states that her argument in support of racial integration is not “unrealistic” in that it does not violate any of these requirements of nonideal theory: “[M]y integrationist theory ... does not prescribe normative standards that are impossible or unreasonably difficult for people to meet, nor standards that fail to serve their objectives.”¹⁴⁰

I accept these three requirements of empirical realism. However, there is a way in which nonideal theory should be realistic that Anderson mistakenly rejects or does not recognize. The issue is the significance, if any, of the wrongful or unjust dispositions or actions of other agents and of ourselves for justifying duties of justice. Anderson recognizes this concern when she concedes that governmental policies for racially integrating public schools, which in her view are necessary to correct injustice, are “not politically feasible” because of unjustly motivated “massive white resistance.”¹⁴¹ “This,” she says, “raises the question of what sort of realism is demanded in

¹³⁸ I discuss this argument in chapter 3. Anderson, 186.

¹³⁹ Anderson, 4–5.

¹⁴⁰ Anderson, 190.

¹⁴¹ Anderson, 189.

political philosophy.”¹⁴² While she accepts the three kinds of realism we have already canvassed, she rejects the idea that “a sound political philosophy must be realistic in another sense: that it must accommodate people’s *unwillingness* to meet certain standards of justice ... [N]o one supposes that moral philosophy should be realistic in this sense: people’s refusal to do what morality requires does not generate a valid claim on their part to be let off the moral hook. Why should matters be any different in normative political philosophy?”¹⁴³

Anderson is correct that a moral agent’s (e.g. a person, the state, an institutional agent) unwillingness to comply with a certain requirement of morality or justice does not mean that she does not have that duty. However, there are other ways in which unjust motivations and actions are significant for identifying agents’ duties of justice in nonideal theory. First, we have to take into account the unjust dispositions and conduct of *other* agents. Although it is true that a person’s unwillingness to perform an obligation does not cancel it, *other* people’s lack of motivation to fulfill their obligations may very well mean that she does not have certain duties or that she has additional or even stronger obligations.¹⁴⁴ This is because other agents’ wrongful motives and actions can affect several factors that determine what duties an agent possesses. For example, some courses of action or social policies are (a) feasible, (b) morally permissible, and (c) effective at promoting moral ends only if other agents contribute to them as well. In addition, the unjust dispositions and conduct of other agents can make (d) the burdens of performing certain actions

¹⁴² Anderson, 190.

¹⁴³ Anderson, 190.

¹⁴⁴ David Enoch also makes this point and stresses that it is especially important in political philosophy, which always deals with multiple agents. In contrast, the subject matter of moral philosophy is often a single agent. Enoch, “Against Utopianism.”

unreasonable as well as (e) lessen the probability that they will advance justice and (f) increase the risks that they will exacerbate injustice. Even if a specific policy would advance justice more than all others if it succeeds, we may have greater reason to attempt an alternative because the probabilities of realizing more just outcomes or of avoiding unjust consequences are too low. For all these reasons, nonideal theory must consider the unjust motivations and actions of other agents in justifying duties of justice.¹⁴⁵ While Anderson's position is not that "political philosophy should ignore what people are willing to do," she does relegate these considerations to having only derivative and instrumental importance.¹⁴⁶ "It is one thing," she says, "to lay out an objective required by justice, another to implement policies capable of achieving that objective."¹⁴⁷ In contrast, my argument shows that unjust dispositions and conduct are relevant to identifying our requirements of justice and not only the means by which to bring them about.

Second, even if a specific agent's wrongful motives and actions do not release them from their moral obligations, we still need to answer the question of what these agents, such as an individual citizen, a corporation, or the state, should do *given (the likelihood) that some of their own dispositions or actions will be unjust*. For example, perhaps it is the case that the state as a collective agent is obligated <to not commit or be disposed towards corruption, partiality, or

¹⁴⁵ My argument does not imply that if a person's burdens or the risks of suffering burdens conditional on her taking certain actions are in anyway worsened by others' unjust motivations or conduct, that she is always justified or excused if she does not perform those actions. We may be morally obligated to suffer greatly and even die, even if those costs are wrongly inflicted by other people. What my analysis does say is that *some* burdens can be unreasonable, but it does not specify what the standard of unreasonableness is or how we determine it. The standard may depend on the gravity of the injustices that exist, and it may change based on a person's role (e.g. as a parent or soldier). I am not able to offer a developed account of these very significant matters at this time, but it can be reasonable for people to be required to bear extremely weighty and wrongly imposed costs.

¹⁴⁶ Anderson, *The Imperative of Integration*, 190.

¹⁴⁷ Anderson, 190.

abusing state power *and* to not waste resources on preventing state corruption, partiality, or the abuse of power>. ¹⁴⁸ This duty seems reasonable because the state is able to fulfill the first conjunct of the obligation without undue costs and there would be no need to hinder its own corruption, partiality, and the abuse of power when the first conjunct is fulfilled. The state is not freed from this obligation because in reality it will or is likely to commit or to have inclinations towards corruption, partiality, or the abuse of power. So in a sense, there is nothing wrong with a theory of justice that does no more than establishes this duty as an imperative of justice for the state and defends it by saying that the state cannot be “let off the moral hook” because of its own moral failings. But that theory is also likely to strike us as practically useless in another sense because it does not tell us what the state should do in light of a realistic assessment of how the state will or will be disposed to act. ¹⁴⁹ Therefore, in both moral and political philosophy, agent’s own unjust motivations can be very significant for justifying the duties of justice we are interested in. Anderson does not deny this point, but it is worth stressing given its importance for constructing a nonideal theory that gives us the practical guidance that we need.

2.4 Status Quo Bias, Downgraded Agency and Unjust Advantages

I have argued that the center of Anderson’s pragmatist nonideal methodology are the views that our moral judgments and principles are better justified if we properly incorporate the empirical evidence provided by experiments in living, that such evidence is necessary for justification, and

¹⁴⁸ I take this example to be a statist cognate to Frank Jackson and Robert Pargetter’s Professor Procrastinate, which David Estlund discusses in relation to recent methodological debates in political philosophy. Estlund, “Human Nature and the Limits (If Any) of Political Philosophy”; David Estlund, “Utopophobia,” *Philosophy & Public Affairs* 42, no. 2 (2014): 113–34.

¹⁴⁹ I say “in another sense” because the complaint is not that the state does not have practical reasons to comply with the conjunctive duty. Rather, it is that that duty is not the correct answer to other pressing practical questions.

that justification is possible with sufficient empirical evidence and apart from *a priori* reflection about the moral requirements that govern very different circumstances. I have also concurred that nonideal methodology must be empirically realistic and take into account the capacities of human beings, an empirical and causal investigation into existing injustices and what would remove them, and the burdens that proposed solutions entail. In addition, I have contended that unjust motivations and conduct are significant for identifying our duties of justice in nonideal theory in ways that Anderson does not appreciate. Using my reconstruction of pragmatist nonideal methodology, in this final section, I would like to consider Tommie Shelby's trenchant criticisms of Anderson's approach. Although I have disagreed with Anderson at some points, our differences will not affect the assessment of Shelby's objections.

Shelby argues that Anderson's pragmatist approach is a version of what he calls "the *medical model*" that justifies ideals or policies by (1) describing a "social problem ... ([e.g.] the prevalence of impoverished single-mother families and youth violence)," (2) identifying the causal "linchpin" that perpetuates those problems "(joblessness or segregation)," and (3) proposing "a cost-effective solution that would remove this linchpin (a jobs program or an integration initiative) with the expectation that [the problem] will, eventually, fade away as a result."¹⁵⁰ (4) "The primary aim of those working within this framework," he says, "is to increase the material welfare of people ... through narrowly targeted and empirically grounded interventions into their lives."¹⁵¹ Shelby calls this approach the *medical model* because its proponents often say that "the persistent cries of injustice and other grievances ... are conceived as symptoms (like headaches, fatigue, and

¹⁵⁰ Shelby, *Dark Ghettos*, 2; "Integration, Inequality, and Imperatives of Justice," 256.

¹⁵¹ Shelby, *Dark Ghettos*, 2.

insomnia) to be treated by empirically grounded interventions, which are conceived as potential cures for social ills”.¹⁵² His primary worry is not about the use of “biological or medical metaphors” or “the medical model per se,” which “can be an appropriate way to think about and respond to a worrisome social problem when that problem is not a matter of basic justice.”¹⁵³ However, when “problems are a consequence of injustice,” he maintains that the medical framework has “serious limitations and pitfalls.”¹⁵⁴

First, Shelby says that the medical approach suffers from “the problem of *status quo bias*” because “[j]ust as physicians take basic human anatomy as given when treating patients, [those] working within the medical model treat the background structure of society as given and focus only on alleviating the burdens of the disadvantaged ... In short, features of society that could and should be altered often get little scrutiny;” Second, there is “the problem of *downgraded agency*” in that “the technocratic reasoning of the medical model marginalizes the political agency of those it aims to help ... regard[ing] [them] as passive victims in need of assistance rather than as potential allies in what should be a collective effort to secure justice for all.” The medical model is technocratic because only social scientific experts can design the policies needed to fix complex social problems and lead society to benefit the disadvantaged. Third, “the *unjust-advantage blind spot* problem” claims that since the medical framework “focus[es] on the problems of the disadvantaged[,] [it] can divert attention from or obscure the numerous ways in which the

¹⁵² Shelby, “Integration, Inequality, and Imperatives of Justice,” 256.

¹⁵³ Shelby, *Dark Ghettos*, 3.

¹⁵⁴ Shelby, 4, 2.

advantaged unfairly benefit from an unjust social structure.”¹⁵⁵ In order to avoid these difficulties, Shelby argues that we should adopt “a *systemic-injustice* framework,” in which “both the government and ordinary citizens are viewed as having a duty to ensure that the social system of cooperation we all participate in is just.”¹⁵⁶ In this perspective, everyone’s agency is respected because they are seen as moral agents who have duties of justice and the injustice of social institutions and their distribution of benefits and burdens is always in view.

The medical model is not an accurate representation of Anderson’s pragmatism, and consequently Shelby’s objections do not undermine it. Although (1) identifying social problems, (2) providing in-depth empirical analysis into their causes, and (3) ascertaining empirically supported solutions to these problems is part of her approach, it is not true that (4) increasing “the material welfare of people” is its “primary aim.” Rather, pragmatism as a nonideal methodology seeks to construct a “nonideal theory ... [that] advance[s] principles and ideals ... that we need to cope with the injustices in our current world, and to move us to something better.”¹⁵⁷ The specific problems that it is concerned with are identifying and complying with requirements of justice and figuring out how we ought to respond to social injustices including unjust conduct by individual persons and social institutions as well as unjust distributions of social goods. Hence, the principles of social equality that Anderson justifies using a pragmatist moral epistemology govern the distribution of rights, opportunities and the powers and ends of political offices.¹⁵⁸ These principles

¹⁵⁵ Shelby, 2–3.

¹⁵⁶ Shelby, 3.

¹⁵⁷ Anderson, *The Imperative of Integration*, 3.

¹⁵⁸ Anderson, 85–86, 106–8.

can be used to identify the parts of a social system that are unjust and should be reformed as well as unjust advantages that should be redistributed. Therefore, the status-quo bias and the unjust-advantage blind spot objections are mistaken. Pragmatist nonideal methodology does not “focus only on alleviating the burdens of the disadvantaged” and “treat the background structure of society as given” or ignore “the numerous ways in which the advantaged unfairly benefit from an unjust social structure.” On the contrary, it establishes principles of justice that reveal the features of social arrangements that caused or cause injustice, the unjust advantages generated by such a system, and *unjust* disadvantages that we may have duties of justice to remove.

Anderson responds to the downgraded agency objection by saying that “it is odd that Shelby treats the new integrationists [including herself] as exemplars of the medical model ... In the new integrationist vision, ... *all* citizens [are] to exercise their agency to form a more perfect union.”¹⁵⁹ Indeed, in the work that Shelby criticizes, she says that “all citizens have a duty to promote the justice of social arrangements, and ... it is just to expect all citizens to bear their fair share of the costs of integration.”¹⁶⁰ Furthermore, she holds that racial justice can be achieved only if both unjustly disadvantaged black citizens and unjustly advantaged white citizens fulfill their responsibilities: “black[] [Americans] need to change, white[] [Americans] need to change, and we need to change. These changes can happen only through racial integration.”¹⁶¹ In spite of these statements, Shelby may argue that there are certain features of her pragmatist methodology that do

¹⁵⁹ Elizabeth Anderson, “Dark Ghettos: Injustice, Dissent, and Reform, by Tommie Shelby,” *Mind* 127, no. 505 (2018): 283.

¹⁶⁰ Anderson, *The Imperative of Integration*, 149.

¹⁶¹ Shelby cites both these quotes on the same page of his review article of Anderson’s *The Imperative of Integration*. Anderson, 186; Shelby, “Integration, Inequality, and Imperatives of Justice,” 267.

not fully respect the moral and political agency of the unjustly disadvantaged and that conflict with her substantive views. Shelby seems to express a more complex assessment of this kind when he says that Anderson's "medical model" has "top-down social-engineering" and "technocratic" as well as "bottom-up" "democratic pragmatist" and "populist moments" in which ordinary citizens' moral agency is fully recognized.¹⁶² So let us consider whether pragmatist nonideal methodology is committed to minimizing the moral and political agency of the unjustly disadvantaged.

In my view, none of the key features of pragmatism suggest that victims of injustice are not moral and political agents. Pragmatist nonideal methodology is defined by a certain experimental and empiricist way of justifying requirements of justice, but this does not suggest that the unjustly disadvantaged or oppressed are not moral agents who are responsible for doing their share to realize justice. They are moral agents just in case they have certain rational and moral capacities, which is a separate matter from pragmatism's moral epistemology. What pragmatism adds is that the duties that the victims of injustice possess are better and necessarily justified using the evidence of experiments in living and can be justified without *a priori* reflection about very distant circumstances. In addition, it says that justification must be empirically realistic in the ways we have discussed in the previous section. But these points are entirely compatible with the agency of the unjustly disadvantaged and with their not being simply "passive victims" whose "motivational and cognitive tendencies are ... viewed as levers that technocrats manipulate to direct us toward our common good."¹⁶³

¹⁶² Shelby, "Integration, Inequality, and Imperatives of Justice," 256.

¹⁶³ Shelby, 257.

However, Shelby has an additional worry that stems from his “Rawlsian ... commitment to public justification.”¹⁶⁴ “[O]n the Rawlsian model,” “basic ideals of justice” can be justified to all citizens “relatively independent of controversial social theory.”¹⁶⁵ He accepts that in identifying the “means” that would “bring about social conditions that realize justice, sophisticated knowledge of empirical realities [which requires expertise not possessed by all] will of course be necessary ... There is no assumption, however, that the [basic] principles of justice are themselves unknowable without a detailed empirical analysis of current social realities.”¹⁶⁶ In contrast, “[a] technocratic vision of social justice would seem to marginalize the moral judgment and agency of the oppressed ... as it would suggest that knowledge of what justice demands is largely out of their reach or beyond their understanding” because it depends on social scientific information that they do not comprehend.¹⁶⁷ Based on these remarks, Shelby’s objection seems to be that because pragmatism claims that in-depth social scientific investigation is necessary to justify some fundamental requirements of justice, it disrespects the moral agency of ordinary citizens and the unjustly disadvantaged because it entails that “ordinary participants, including the oppressed, are [not] regarded as fully competent to judge what social justice demands,” where full competence means that one can know or understand the grounds of a principle of justice first-hand and without reliance of the testimony of experts.¹⁶⁸

¹⁶⁴ Shelby, 257.

¹⁶⁵ Shelby, 257–58.

¹⁶⁶ Shelby, 257–58.

¹⁶⁷ Shelby, 258.

¹⁶⁸ Shelby, 256–57.

I cannot fully assess the Rawlsian position on which Shelby's more specific downgraded agency objection is based here.¹⁶⁹ It is a controversial stance that not even all theories that have some requirement of mutual justification share.¹⁷⁰ Nevertheless, several critical remarks are in order. First, if it is true that the justification of certain requirements of justice involves social scientific facts or theories that not all ordinary citizens can understand, then holding this view does not disrespect these citizens' epistemic or moral agency. In general, we should value and respect a person's epistemological and moral agency in proportion to (what the available evidence indicates about) what their actual epistemological and moral powers are.¹⁷¹ For example, we do not fail to honor a person by believing that a social scientist or a climate scientist knows things about social policy or climate change that she does not, if that is true. It is unclear then why we should think that it downgrades or marginalizes a person to think that she may not fully understand the reasons for certain requirements of justice that involve complex social science. Furthermore, it is worth stressing that Anderson's pragmatism does entail that the epistemic and moral capacities of ordinary citizens and the unjustly disadvantaged are very significant. This is because they are among the most affected by existing social institutions, laws, and policies and their experiences of

¹⁶⁹ It is worth pointing out that Shelby's view seems to go beyond many Rawlsian theories of public justification in demanding that principles of justice need to be established without complex social science. For example, a principle grounded in sophisticated social science can be *justified* to a citizen who does not have such first-hand knowledge by giving her sufficient reason to trust the testimony of experts. In addition, it is hard to believe that Shelby's view is Rawls's since the parties in the original position are assumed to know all general social scientific knowledge and use it to assess principles of justice. John Rawls, *Political Liberalism*, Expanded ed, Columbia Classics in Philosophy (New York: Columbia University Press, 2005), 137; Rawls, *A Theory of Justice*.

¹⁷⁰ For example, some versions of contractualism hold that principles are to be justified to parties that are assumed to be *informed* about the relevant facts. On these accounts, principles of justice whose grounds include complex social scientific facts could be justified to ordinary citizens in spite of their ignorance of these facts in real life. E.g. Scanlon, *What We Owe to Each Other*; Philip Kitcher, *The Ethical Project* (Cambridge, Mass: Harvard University Press, 2011).

¹⁷¹ David Enoch, "The Masses and the Elites: Political Philosophy for the Age of Brexit, Trump and Netanyahu," *Jurisprudence* 8, no. 1 (2017): 1–22.

the actual consequences of current social arrangements and their moral intuitions are essential to moral justification. Hence, according to pragmatism, justification is importantly social because the required knowledge is dispersed among many different groups, including trained experts and everyday citizens, such that figuring out just requirements and social arrangements will have to involve each of them.¹⁷²

Second, it is implausible that all (relatively) basic principles of social justice can be justified without reference to sophisticated social science. Consider, for example, Rawls's fair equal opportunity principle that states that people with the same abilities and motivation should have the same socio-economic opportunities no matter their starting position in society.¹⁷³ This is a principle with extensive social and institutional consequences that would affect the lives of everyone in society if it were realized. Given its weighty consequences, it is not reasonable to think that we could be justified in believing this principle or thinking that we should apply it without careful consideration of its actual practical implications, which will require in-depth social scientific knowledge. For example, although the principle may seem very attractive in the abstract, reflection on its consequences reveals that it is "[n]otoriously ... incompatible with anything resembling current family structures, and perhaps any feasible childrearing arrangements."¹⁷⁴ Social scientific investigation may very well be necessary to find other consequences that we may want to avoid and be required to formulate a replacement principle that sufficiently respects all

¹⁷² Anderson, *The Imperative of Integration*, chap. 5.2.

¹⁷³ Rawls, *A Theory of Justice*, 63.

¹⁷⁴ Anderson, "Reply to Critics," 377; Rawls, *A Theory of Justice*, 64.

our values. Nevertheless, as I have argued, acknowledging the importance of social science for moral justification does not disrespect ordinary citizens, even if it means they do not have knowledge of or understand the entire basis of a principle of justice.

Third, even if we grant Shelby's Rawlsian view, it does not seem to be at odds with Anderson's pragmatism. For even though it is not part of what I have set forth as the core of Anderson's pragmatism, it would be consistent for a pragmatist to adopt Shelby's commitment to public justification. This would mean that justifying a requirement as a principle of justice must involve showing that ordinary citizens can fully understand the reasons for its validity. For this kind of pragmatist, if a principle cannot be known by ordinary citizens (without the testimony of experts) because of the social scientific premises needed to support it, then it is simply not a valid principle of justice. Hence, we can see that the status quo bias, the downgraded agency, and the unjust advantage blind spot objections are not genuine problems for pragmatist nonideal methodology once it is properly understood.

Chapter 3: Integration, Corrective Necessities and Unjust

Constraints

African Americans living in racially segregated neighborhoods are significantly disadvantaged in terms of income, wealth, educational achievement, employment, exposure to crime, and risk of incarceration in comparison to white Americans. Although overtly racist beliefs about black Americans having less innate ability have steadily declined among white Americans, there is much evidence that stereotypes about African Americans having less motivation, intelligence, being dependent on welfare or involved in drugs and gangs are widespread. These negative attitudes explain why there is little white support for public policies that would substantially alleviate black inequalities, the high rates of anti-black discrimination among real estate agents, homeowners, and landlords, and the unwillingness of many white Americans to live in integrated neighborhoods with more than a token number of black people.¹⁷⁵ While many hold that segregated black Americans are no longer disadvantaged because of racial discrimination and that their persistent problems are their own responsibility, some forcefully make the case that existing racial inequalities are severe injustices that we have a duty to remedy.

In *The Imperative of Integration*, Elizabeth Anderson argues that existing patterns of racial segregation in the United States and its disadvantages for African Americans were caused by and cause various forms of racial injustice.¹⁷⁶ Her main claims are first, that racial integration is a necessary condition for correcting some of the unjust racial inequalities that are the effects of

¹⁷⁵ Lawrence D. Bobo, "Somewhere between Jim Crow & Post-Racialism: Reflections on the Racial Divide in America Today," *Daedalus* 140, no. 2 (2011): 11–36.

¹⁷⁶ Anderson, *The Imperative of Integration*.

segregation (given certain empirical and moral constraints), and second, that integration is an imperative of justice.¹⁷⁷ The second claim is dependent on the first. It is because we have no way of correcting certain racial injustices other than integration that justice requires it. Similarly, even though Tommie Shelby criticizes Anderson's case for integration as a corrective necessity and a requirement of justice, he maintains that everyone has a duty to do their part to achieve what is necessary for corrective justice.¹⁷⁸ While the previous chapters have discussed many of their disagreements regarding moral justification in nonideal theory, both Anderson and Shelby concur that if a course of action, policy, or modification in how a social system distributes welfare, respect, or material goods is necessary to remove injustice or to achieve a just society, then everyone has a duty to do their part to bring those changes about. In other words, according to their views about nonideal methodology, you can derive requirements of justice from what is needed to correct injustice, and hence facts about which processes or social conditions are corrective necessities are especially important. This assumption is pivotal for Anderson and Shelby's cases for and against an imperative of integration.

In this chapter, I will criticize both Anderson and Shelby's arguments and argue that we need significantly to modify how they try to ascertain our duties in relation to existing racial injustices and whether racial integration, benefiting segregated black neighborhoods, or some other course of action is requirement of justice. In section 1, I will examine Anderson's relational theory of justice and social equality, how she derives the injustice of inequalities and states of affairs, and the practical implications of unjust disadvantages and conditions. Section 2 will summarize

¹⁷⁷ The qualification "given certain empirical and moral constraints" should be understood when I discuss corrective necessities. I will specify what these constraints are later.

¹⁷⁸ Shelby, *Dark Ghettos*, 76.

Anderson's case for the injustice of the disadvantages caused by segregation and for the necessity and duty of racial integration. I will argue that a simple version of Anderson's argument is incomplete and that we need to consider more empirically informed and causally rigorous accounts of her reasoning. In section 3, I will reconstruct and defend Anderson's social capital and anti-stigmatization arguments, which represent her main support for the claim that integration is necessary to remedy certain racial injustices. Similarly, in section 4, I will examine how Anderson argues that integration is a requirement of justice and that it can be achieved through certain feasible, morally permissible and not unreasonably burdensome policies that involve black Americans, white Americans, and the state. However, I will contend that the fact that these policies could realize integration and correct racial injustice does not mean that any moral agent has a duty to support them. Furthermore, I will show that the corrective necessity of integration only means that we have defeasible reasons of justice to pursue it that we cannot satisfy otherwise, not that we have an all things considered duty of integration. Supporting integration is a duty for a particular agent, I will argue, just in case it is the morally permissible and feasible course of action with reasonable costs that has the best chance of advancing justice in her circumstances. Section 5 will contend that Shelby's main criticisms of Anderson do not show that integration is not needed to correct some racial injustices or that integration is not a duty of justice. Moreover, I will argue that he is wrong to think that if integration is not necessary for corrective justice, then it is not an imperative of justice. Lastly, in section 6, I will consider Anderson and Shelby's objections to my view that unjust motivations and actions (such as wrongful recalcitrance to integration or to reviving black neighborhoods) are significant facts for justifying duties of justice. Although I will not be able to establish the duties of certain agents regarding racial injustice or whether integration is a requirement of justice in this chapter, I will make significant progress towards that end by

showing how we should justify those duties and how Anderson and Shelby's influential positions are mistaken.

3.1 Justice and Relational and Distributive Equality

For Anderson, “justice [is fundamentally] a virtue of agents (including institutions)” and “principles [of justice]” inherently “regulate their conduct.”¹⁷⁹ More specifically, “[j]ustice comprises that *subset* of the moral right tied to individual *claim rights*, which ground [conclusive or all things considered] duties of others to pay due regard to individuals’ interests.”¹⁸⁰ It follows that “there can be no injustice without an agent who is (or was) substantively responsible for it – someone obligated to avoid, correct, or bear the costs of the injustice or of its correction or amelioration.”¹⁸¹ Duties and principles of justice are also subject to the “maxim that ‘ought’ implies ‘can’: principles of justice must be *feasible* such that agents are able to follow them.”¹⁸² “Valid claims of justice,” then, “must be addressed to agents who are in a position to make things right—or at least better. If what is demanded of them is impossible, then the claim is invalid.”¹⁸³

Importantly, according to this perspective, “*justice as an evaluation applied to states of affairs is entirely derivative of justice as an appraisal of the conduct of agents*. Where all agents conduct themselves justly – where they successfully comply with all reasonable demands – the

¹⁷⁹ Anderson, “The Fundamental Disagreement between Luck Egalitarians and Relational Egalitarians,” 2.

¹⁸⁰ Anderson, 4.

¹⁸¹ Anderson, 5.

¹⁸² Anderson, 17.

¹⁸³ Anderson, *The Imperative of Integration*, 75.

state of affairs resulting from their conduct is just.”¹⁸⁴ This includes the distribution of social goods and welfare. There is no way to discern whether a highly unequal distribution of wealth, opportunities, respect, or well-being is unjust by looking at that distribution itself. It is unjust if and only if some agent had or has a duty of justice to bring about a different distribution or that distribution causes unjust actions. Anderson’s conception of justice (and equality) is “relational” because it holds that the “relation[s],” or “mode[s] of conduct” by which “one [moral agent] interacts with (or avoids) [an]other [agent], or acts in ways that affect the other [agent’s] interests or autonomy,” are “proper objects of direct normative assessment in a theory of justice,” whereas some contrasting views take “de facto inequalities in goods as objects of direct normative assessment independent of the relations through which they are produced or their effects on social relations.”¹⁸⁵ The relations of moral agents are the basic objects of normative assessment because justice is fundamentally about whether they respect the claim rights of others and comply with the corresponding duties in their actions.

Shelby appears to share a similar view of justice. “The very idea of social justice,” he says, “presupposes the duty of justice: no one can resent being treated unjustly by the basic structure of society yet consistently reject the duty of justice.”¹⁸⁶ The idea seems to be that the injustice of a social structure is essentially something that can be resented or complained about and that this implies the existence of an all things considered duty of justice that is binding on some moral agent

¹⁸⁴ We will see that Anderson also counts states of affairs as unjust if they cause unjust conduct. Anderson, “The Fundamental Disagreement between Luck Egalitarians and Relational Egalitarians,” 5.

¹⁸⁵ Anderson, *The Imperative of Integration*, 16–17.

¹⁸⁶ Shelby, *Dark Ghettos*, 57.

and that has been violated.¹⁸⁷ This means that distributional inequalities and disadvantages are unjust only if there is some agent who had or has a duty to avoid or remove them. In any case, Shelby's criticisms of Anderson will clearly presuppose that an imperative of justice means that some agent is required to act as the duty directs. While for Anderson duties of justice may be essentially linked to claim rights and for Shelby justice may be especially about duties related to the basic institutions of society, these aspects of their views are not central to their disagreement about integration. What matters is that for both of them, a requirement or imperative of justice is a duty that some agent has conclusive reasons to fulfill.

Anderson's theory of relational and social equality falls within her more general framework of justice, but its requirements apply more specifically to the citizens of modern democracies: "All of the members of a democratic society have a just claim to stand in relations of equality with their fellow citizens."¹⁸⁸ She then derives a standard for the justice of distributive outcomes in a democratic society as follows: "an inequality in the distribution of some good is unjust if it ... is *caused* by unjust [or unequal] relations ... among people ... or *causes* such unjust [or unequal] relations."¹⁸⁹ Similarly, states of affairs, which are not distributive inequalities, may be unjust even if they are not disadvantageous in themselves, if they cause unjust conduct.¹⁹⁰ A disadvantage is *caused* by unjust relations when it is the result of a violation of a duty of justice, and a state of

¹⁸⁷ I assume that duties of justice are a form of moral and practical reason and that only moral agents are subject to such reasons. See also: "[W]e could not reasonably complain about unjust treatment if there were no general *duty*, *binding on us* all, to see to it that no one is so treated." Tommie Shelby, "The Ethics of Uncle Tom's Children," *Critical Inquiry* 38, no. 3 (2012): 522 emphasis added.

¹⁸⁸ Anderson, *The Imperative of Integration*, 18.

¹⁸⁹ An inequality is also unjust if it "*embodies* unjust [or unequal] social relations," but considering disadvantages that are caused or cause unjust relations will be sufficient for our purposes. Anderson, 18.

¹⁹⁰ Anderson, sec. 4.4.

affairs *causes* unjust relations when it tends to make it the case or to make it more likely that these duties will be infringed.¹⁹¹ The fact that a distributive inequality or state of affairs is unjust means that we have a *prima facie* duty or defeasible reasons of justice to change them in order to mitigate the disadvantages or wrongs they constitute or cause. (I will explain why unjust states of affairs only imply defeasible reasons instead of a conclusive duty to rectify them shortly.)

Judging the injustice of a distributional inequality or state of affairs, then, requires knowing the principles or reasons of justice that apply to moral agents. Anderson argues that racial segregation in the United States violated several requirements of justice including those protecting the rights of African Americans against various forms of “[o]ppression” or “social inequalities that impose severe disadvantages on its victims.”¹⁹² However, we will only need to focus on two principles that are especially important for her case that integration is a corrective necessity and a duty of justice.¹⁹³ The first we may call

The Anti-Stigmatization Principle: “Conduct grounded in group prejudice or stigma toward racial, gender, ethnic, and similar groups [should be avoided or stopped] because it assaults the dignity of groups that do not deserve to be demeaned.”¹⁹⁴

¹⁹¹ Anderson does not specify what it takes for something to cause an unjust relation. She uses a number of expressions such as “tends to produce [or] reinforce.” I only offer a plausible interpretation of her position and will not seek a more precise criterion because my argument does not require one. Anderson, 48.

¹⁹² Anderson, 17ff.

¹⁹³ For a fuller account of her principles, see: Anderson, secs. 1.5, 5.4.

¹⁹⁴ I have removed the section of the quote that says prejudicial and stigmatizing behavior “is always unjust” because it is potentially misleading. This is because Anderson holds that people *cannot* stop stigmatizing conduct in some circumstances, which means that there is no duty for them to cease such actions. I will say more on this issue below. Anderson, 20.

Racial prejudice is “out-group antipathy” towards another racial group.¹⁹⁵ Racial stigmatization consists in representations of a racial group whose contents involve “(1) *racial stereotypes* [or generalizations], (2) *racial attributions*, or explanations of why members of the racial group tend to fit their stereotypes, that rationalize and motivate (3) *derogatory evaluations* of and (4) *demeaning or antipathetic attitudes* (such as hatred, contempt, pity, condescension, disgust, aversion, envy, distrust, and willful indifference) toward the target group and its members,” which are (5) “practically engaged” or “cause[] one to act in ways that disadvantage or insult [its] objects.”¹⁹⁶ This broad category includes “racist” representations that are consciously endorsed and those that are “unconscious” and not endorsed, as is typical of cognitive biases.¹⁹⁷ The second requirement is:

The Narrow Principle of Fair Opportunity: “[A]n individual’s access to opportunities should not be undermined by (1) racial prejudice, (2) racial stigmatization, (3) ethnocentric conduct facilitated by the state, or (4) ethnocentric conduct contrary to antidiscrimination principles that govern regulable institutions of civil society.”¹⁹⁸

¹⁹⁵ Anderson, 123.

¹⁹⁶ Anderson, 48, 47.

¹⁹⁷ Anderson, 47.

¹⁹⁸ Anderson, 85.

Ethnocentric conduct by state officials is unjust because they have “a public duty to serve all citizens impartially,” and similarly, in civil society, “operators of public accommodations, including private commercial establishments,” have “a duty to serve all members of the public impartially” and “employers and those selling real estate ... are obligated to do their part to ensure fair economic opportunities to all.”¹⁹⁹

In my view, we should understand these principles to represent *prima facie* duties or defeasible reasons of justice. This is because they may conflict with others that we have more reason to satisfy and therefore cannot be taken as all things considered duties, at least without further justification. For example, we may have the resources to realize a principle against racial stigmatization in employment or another against lethal police violence but not both, and justice may require that we take the latter option due to its comparative urgency. We can accept both as genuine principles of justice but only if they are understood as *pro tanto* reasons of justice.

Recognizing that principles of justice can represent defeasible reasons also allows us to extend Anderson’s account of our reasons to change distributional outcomes and states of affairs. So far we have seen that that a state of affairs is unjust if it is caused by or causes unjust actions, that is, a violation of someone’s claim right or an all things considered duty of justice. We have reasons to remedy the disadvantages caused by injustice and to modify social arrangements if that would prevent unjust conduct. However, in addition, we can have reasons to alter a state of affairs if it means more principles of justice will be satisfied or fulfilled to a greater degree, even if current conditions are not the effect of injustice and do not cause agents to act unjustly. For our purposes, the most important case involves unconscious racial stigmatization and the disadvantages it

¹⁹⁹ Anderson, 20.

produces. As we shall see, Anderson holds that agents *cannot* eliminate some of the unconscious roots of racial stigmatization apart from racial integration.²⁰⁰ But this produces complications for her theory of justice. Insofar as it is infeasible for agents under segregation to prevent these unconscious biases and their effects, conduct grounded in unconscious stigmatization does not violate a duty of justice. Likewise, we do not have reasons to change things to stop these agents from not respecting a duty against unconscious racial discrimination because, under segregation, no such requirement exists for them. Nevertheless, Anderson presupposes that we do have reasons of justice to intervene in social conditions in order to reduce unconscious racial stigmatization and how it undermines African Americans' opportunities. The anti-stigmatization and fair opportunity principles, I propose, are among these defeasible reasons and so understood, they fill a gap in Anderson's theory and argument, which focuses on the causal connections between states of affairs and conclusive duties of justice.

We may then have defeasible reasons of justice to change distributive outcomes and social arrangements if they cause or are caused by unjust conduct or if it would better realize principles of justice. However, neither the injustice of states of affairs nor defeasible principles imply that any moral agent has or will have an (all things considered) requirement of justice to change current social conditions. As we've seen in previous chapters, duties of justice depend on several factors including (a) the extent of the relevant moral agent's abilities in the circumstances, (b) the availability of morally permissible actions, (c) the costs involved in following various courses of action and whether they are reasonable, (d) the probabilities that the agent will succeed in realizing greater justice and (e) the risks that injustice will be exacerbated conditional on various actions.

²⁰⁰ Anderson, 186.

That a distribution is unjust or that we have pro tanto reasons to rectify it does not supply us with any information about these factors that is necessary to justify an imperative of justice. Conversely, the fact that no one has a duty to correct an unjust distribution does not imply that the state of affairs is not unjust. Moral agents may not have the capacity to remedy certain unjust inequalities, but that would not alter the fact that the disadvantages are unjust if they were caused by past racial prejudice.

The way that Anderson and Shelby connect unjust states of affairs to the duties of specific moral agents is through a general duty of justice. “[A]ll citizens,” Anderson says, “have a duty to promote the justice of social arrangements ... [and] it is just to expect all citizens to bear their fair share of the costs” of realizing what is necessary or “instrumental to justice.”²⁰¹ Likewise, for Shelby, “[t]he duty of justice is a moral requirement all are bound by ... When an institutional arrangement is seriously *unjust*, the duty of justice ... demand[s] ... that we help to establish a just social order and to reform unjust institutions.”²⁰² Shelby and Anderson concur that “[t]he duty to correct injustices falls to us all, the disadvantaged and the privileged, so it is reasonable to expect the oppressed to pay some of the costs of social reform.”²⁰³ Shelby adds that we should avoid increasing the burdens of the oppressed if “the goals of corrective justice can be achieved without them.”²⁰⁴ However, if certain reforms (such as racial integration) that imply costs for the oppressed are necessary to correct injustice, then they do have a duty to take on these “necessary burdens,”

²⁰¹ Anderson, 148–49.

²⁰² Shelby, *Dark Ghettos*, 57.

²⁰³ Cf. Anderson: “black[] [Americans] need to change, white[] [Americans] need to change, and we need to change. These changes can happen only through racial integration.” Shelby, 76; Anderson, *The Imperative of Integration*, 186.

²⁰⁴ Shelby, *Dark Ghettos*, 76.

given that they are “share[d] ... equitably” and not unreasonable.²⁰⁵ When Anderson and Shelby say that something is necessary to correct injustice, they mean that it is required given certain non-normative or descriptive and moral constraints, including physical laws, the current state of the world, the capabilities of human beings, specific causal relations disclosed by social science, and the right of freedom of association.²⁰⁶ However, as we will see, within these constraints, their aim is to identify what is necessary and possible for *specific sets of distinct agents* to do in order to remove certain racial injustices.²⁰⁷ In particular, the courses of action, policies, and principles they set forth are supposed to be possible and necessary for certain black Americans, white Americans, and the state if they work together to rectify unjust disadvantages.

I will examine the parts of Anderson and Shelby’s views in the last paragraph in detail. However, for the most part, I will not challenge their theories of justice. Rather I will disagree with some of the conclusions they attempt to draw when they apply their theories to facts about the history and effects of racial segregation and the benefits of integration.

3.2 Segregation, Inequality and Integration

Anderson maintains that racial segregation in the United States and its detrimental effects are unjust because they are caused by and cause unjust relations.²⁰⁸ I will focus on her treatment

²⁰⁵ Shelby, 76.

²⁰⁶ Anderson, *The Imperative of Integration*, 3–5, 19; Shelby, *Dark Ghettos*, 67.

²⁰⁷ Anderson, *The Imperative of Integration*, 189–90; Shelby, *Dark Ghettos*, 74.

²⁰⁸ I can only briefly summarize Anderson’s complex account of the unjust disadvantages of segregation and of the remedial effects of integration. I concentrate on certain effects of segregation and integration because they are the most relevant to Anderson’s argument for integration as a corrective necessity and a requirement of justice. At the same time, I stress that there are many severe racial injustices that black Americans struggle with that are not addressed in this chapter given its more specific focus.

of *spatial segregation* or the condition in which different identity groups occupy separate “social spaces and institutions,” especially residential neighborhoods.²⁰⁹ The residential segregation of black Americans in relation to white Americans is high with most African Americans living in majority-black neighborhoods and with half living in “hypersegregated” areas.²¹⁰ Subsequently, public K-12 schools are highly segregated too since their populations reflect that of segregated neighborhoods.²¹¹ This state of affairs is “the legacy of state-sponsored antiblack racial discrimination” in the forms of private housing discrimination, the state’s promotion of racial redlining and financing of white flight from black and integrated neighborhoods, the creation of new city borders, local governments and zoning regulations to exclude African Americans from white neighborhoods and their tax revenues and public services, and the placement of public schools in racially segregated neighborhoods.²¹² As a result, segregated black Americans have much lower access to employment opportunities, retail, commercial and healthcare services, which are mostly located in distant white neighborhoods, and they suffer from higher levels of poverty, crime, blight, and tax burdens and from lower quality public goods such “police protection, public order, fire protection, trash removal, streets, parks, public recreational facilities and schools.”²¹³

²⁰⁹ Anderson, *The Imperative of Integration*, 9.

²¹⁰ This is measured by the “dissimilarity index.” “A black-white segregation index of 40 for a metropolitan area at the census tract level indicates that 40 percent of black[] [residents] would have to move to a different tract to establish a black-white ratio within each census tract equal to the overall ratio in a metropolitan area. Some demographers consider a dissimilarity index under 45 to indicate low segregation, 45-60 to indicate medium segregation, and over 60 to indicate high segregation ... [R]esidential segregation of black[] [Americans] with respect to white[] [Americans] is high (65.0) ... According to Census 2000 data, half of black[] [Americans] live in “hypersegregated” census tracts, with an index of dissimilarity of 75 or higher.” Anderson, 25–26.

²¹¹ Anderson, 26.

²¹² Anderson, 68–69.

²¹³ Anderson, 27–31, 38–43.

Especially significant to Anderson's argument is how segregation affects social capital or "networks of people in social relationships that serve as resources" for socioeconomic advancement, for example, "by providing information channels, supporting cooperation and reciprocity ... and sustaining other social norms that coordinate people's behavior" (cultural capital), and transferring "marketable skills" (human capital).²¹⁴ Segregation deprives black Americans of social, cultural, and human capital because it closes them off from white Americans' social networks, which are crucial sources of information about opportunities, job referrals, cultural norms of cooperation, and marketable skills. To the significant extent that segregation and its inequalities were caused by racial prejudice and stigmatization and illegitimate ethnocentrism (in violation of duties to satisfy the anti-stigmatization and fair opportunity principles), its disadvantages for African Americans are unjust.

Furthermore, Anderson argues that "even if current patterns of racial segregation and resulting race-based disadvantage had been produced through innocent processes, they would still be unjust ... [because] they *cause* ... unjust group relations."²¹⁵ In particular, segregation leads to racial stigmatization through the operation of several cognitive biases. For example, we have biases (1) "to attribute positive behaviors of in-group members [to their internal] disposition[s], and negative behaviors [to their external] situations, while reversing these attributions for out-group members" (*ethnocentrism or in-group favoritism*), (2) "to align [our] perceptions and judgments with those of in-group members" (the *shared reality bias*), and (3) "to form stereotypes about a group with which they have little contact on the basis of unusual events, such as sensational

²¹⁴ Anderson, 33–38.

²¹⁵ Anderson, 84.

crimes, connected to that group” (the *illusory correlation bias*).²¹⁶ Since under segregation white Americans will have few, if any, black Americans in their groups, in-group favoritism and the shared reality bias mean that they will tend to develop stigmatizing representations of African Americans that explain the negative stereotypes about them in terms of that insult their character, culture, or choices and that these ideas will not be challenged by black American experiences. Moreover, the illusory correlation bias means that segregated white Americans will also tend to possess stigmatizing stereotypes about African Americans based on encounters with or depictions of deviant black people in the media.²¹⁷ These unconscious biases and stigmatizing representations lead to conduct which insult and disadvantage black Americans. Hence, segregation causes white Americans to violate their duties to reject racial stigmatization and hence, to unjustly undermine African Americans’ opportunities. That is, insofar as white Americans are unable to avoid stigmatizing conduct, segregation causes violations of the anti-stigmatization and fair opportunity principles, which we have reasons to prevent.

In the chapter “The Imperative of Integration,” Anderson puts her basic case as follows: “If racial segregation is the problem, it stands to reason that racial integration is [a necessary part of] the remedy. Since the problem is an injustice, the remedy is an imperative of justice.”²¹⁸ I take these statements to support Anderson’s main claims that (1) “racial integration is ... necessary ... to overcome unjust racial inequality in opportunities [and] undo racial stigmatization” and that (2) integration is a requirement of justice. Integration is an indispensable part of the solution because

²¹⁶ Examples of “internal dispositions ... [are] genes, culture, or voluntary choices ... [E]xternal circumstances [are things like] luck or the action of others. Anderson, 45–46.

²¹⁷ Anderson, 46–47.

²¹⁸ Anderson, 112.

it is “the negation of segregation” and undoes the causal mechanisms that led to and perpetuate black disadvantage.²¹⁹ Integration can be divided into four dimensions: (1) *Formal desegregation* consists in “the abolition of laws and policies enforcing racial separation;” (2) *Spatial integration* consists in the common occupancy and “use ... of facilities and public spaces by substantial numbers of all races;” (3) *Formal social integration* “occurs when members of different races cooperate in accordance with institutionally defined social roles, and all races occupy all roles in enough numbers that roles are not racially identified;” (4) *Informal social integration* involves “cooperation, ease, welcome, trust, affiliation and intimacy that go beyond the requirements of organizational defined roles.”²²⁰ Spatial integration, such as residential integration, improves “the socioeconomic and physical well-being of groups [unjustly] disadvantaged by segregation by enhancing their access to public and social goods” of white spaces, while social integration with, for example, neighbors, colleagues, schoolmates, and friends advances “opportunities by opening up social networks of information and referral to [unjustly] disadvantaged groups, and by enabling them to acquire the cultural [and human] capital needed to advance in mainstream institutions.”²²¹ In these ways, spatial and social integration would alleviate African Americans’ unjust disadvantages that were caused by racial segregation. Anderson uses several social scientific studies, including those about the Gautreaux and Moving to Opportunity housing integration programs and school integration projects, to support these claims.

²¹⁹ Anderson, 112.

²²⁰ Anderson, 116.

²²¹ Anderson, 118–22.

In addition, Anderson contends that social integration “reduce[s] antiblack prejudice, stigmatization, discrimination, and anxiety.”²²² One of the reasons is that “[s]everal cognitive biases that lead to stigmatization under segregation lead to destigmatization under integration.”²²³ For example, frequent cooperation among racial groups creates a new integrated in-group whose members become targets of ethnocentrism or in-group favoritism, which means that black Americans will be less subject to stigmatizing attribution biases. Likewise, in integrated groups, the shared reality bias will mean that African Americans’ experiences will influence white Americans’ perceptions and beliefs, making them less reliant on stigmatizing ideas. Furthermore, repeated interactions with African Americans means that the illusory correlation bias will not induce white Americans to form stereotypes of black people based on sensational and deviant events, such as murders.²²⁴ By reducing racial stigmatization, social integration prevents violations of the anti-stigmatization and fair opportunity principles, which are effects of segregated conditions.

When making her primary case for the imperative of integration, Anderson spends most of her time showing how social scientific evidence consistently confirms the hypothesis that integration mitigates the unjust consequences of segregation.²²⁵ However, in my view, this does not demonstrate that integration is a corrective necessity. The success of integration does not imply that there are no other ways of removing the unjust disadvantages of segregation. In fact, Anderson

²²² Anderson, 123.

²²³ Anderson, 124.

²²⁴ Anderson, 123–24.

²²⁵ Anderson, chap. 6.

accepts that some of the unjust inequalities brought about by segregation might be rectified without integration. For “material resources,” she says that we could be able to eliminate unjust disadvantages by “moving resources to people, rather than moving people to resources.”²²⁶ Similarly, it seems that the social and public goods of segregated black neighborhoods could be improved at least to some extent by resource distribution as well. Hence, the first part of Anderson’s basic presentation of her argument is wrong or incomplete. Just because racial segregation was the cause of black Americans’ unjust disadvantages doesn’t mean that we need to undo segregation through integration to remove those injustices. Perhaps, segregation could only cause these injustices because other causal processes, which fall short of integration, were not in place, such as fair resource distribution. Therefore, in order to establish the corrective necessity of integration, Anderson needs to show that certain unjust disadvantages can only be removed by racial integration.

3.3 The Social Capital and the Anti-Stigmatization Arguments

Fortunately, Anderson provides two arguments that attempt to meet this demand. The first is the *social capital argument* that “black disadvantage is caused not simply by lack of material resources but by lack of social and cultural capital, which can be acquired only through interracial interaction [and integration].”²²⁷ It is worth carefully reconstructing Anderson’s reasoning here. Since the state, local governments, real estate agents, and individual citizens unjustly excluded African Americans from white neighborhoods and their superior schools, jobs, and public services, segregated black Americans were prevented from forming social relationships with advantaged

²²⁶ Anderson, 186.

²²⁷ Anderson, 186.

white Americans in their residential communities, educational institutions and places of employment. Hence, segregation unjustly disadvantaged African Americans' access to social capital by undermining their opportunities to join white Americans' social networks, which are resources for gaining (a) information about employment opportunities and (b) referrals for jobs and promotion. In addition, the separation of black and white communities has meant that segregated African Americans have developed cultural differences in linguistic "dialect," "body language, habits of emotional expression and management, styles of personal appearance, ... interaction rituals," "leisure activities ... [and] cultural reference points that are the basis for small talk with coworkers" than those prevalent in the classroom and in majority-white and integrated institutions and companies.²²⁸ For example, African Americans may not know "what topics of conversation to avoid in white social circles, what clothes to wear to put white[] [Americans] at ease, how 'black' hairstyles can get one in trouble at work, and how to decode indirect styles of speech that appear more prevalent among white[] [Americans]."²²⁹ Their unfamiliarity with white cultural norms impedes segregated African Americans' opportunities because it hinders their education and their ability to compete for jobs and to succeed at work because of increased conflict, miscommunication, and lack of cooperation. What appears as "ordinary frankness" to some black Americans may be perceived as "confrontational" by white Americans, and "the straight-talking black worker in the white-dominated environment will be labeled as having an 'attitude,' and her

²²⁸ Anderson, 36–37.

²²⁹ Anderson acknowledges that it is "hard to know how far ... these experiences of cross-racial miscommunication ... generalize to African Americans and white[] [Americans] overall." Nevertheless, she maintains that "[w]hen different people belong to distinct social networks, their norms of communication and interaction will diverge in ways that will not be immediately understood by either side ... the disadvantaged group will tend to bear the costs of misunderstandings arising from their interactions." Anderson, 36–37.

career will suffer accordingly.”²³⁰ Segregation, therefore, unjustly deprives African Americans’ access to (c) cultural capital or cultural habits, norms, and skills that facilitate socioeconomic advancement. Furthermore, the pool of (d) human capital or marketable skills in black neighborhoods is unjustly much lower than in white communities because segregation enabled white Americans to hoard job opportunities, wealth, and high quality schools. Since “[c]hildren acquire marketable skills from the social contacts in their community—parents, other relatives, neighbors, and peers, ... segregation ties children to a disadvantaged structure of social capital, thereby perpetuating the effects of historic discrimination in human capital development.”²³¹

Against this background, the central question of the social capital argument is whether residential and social integration is necessary to remove the unjust disadvantages that existing African Americans (or those soon to exist) have in terms of accessing social capital for gaining (a) information about job opportunities, (b) recommendations for jobs and promotion, (c) cultural capital, and (d) human capital. Even if there are other ways to mitigate these disadvantages that would take several decades, Anderson assumes that existing segregated black Americans should not have to wait that long to obtain redress.²³² In addition, the social capital argument is about what is necessary to eliminate *all* the unjust inequalities in these areas to the extent that it is possible. Any effort to challenge Anderson’s argument must show that all the relevant unjust inequalities could be removed without integration.

²³⁰ Anderson, 37.

²³¹ Anderson, 35.

²³² Anderson, “Dark Ghettos,” 283.

The first part of the social capital argument is that both residential and social integration are necessary to adequately mitigate black Americans' unjust disadvantages in (c) cultural and (d) human capital. Shelby objects that the cultural habits of majority-white neighborhoods and institutions can be learned and maintained in formal educational contexts and in segregated black neighborhoods and that this means that residential integration is not necessary.²³³ However, even if we grant that these cultural habits can be formally taught, black Americans' access to prevailing educational and corporate habits and norms would still be better and their unjust inequalities of cultural capital lower if they resided in integrated neighborhoods and acquired these cultural skills through their everyday relationships and in school and work, instead of having to attend extra classes.²³⁴ Likewise, although marketable skills can be taught in formal educational and business settings, part of African Americans' unjust disadvantages is that their residential communities have a much smaller pool of informal sources of human capital than white or integrated neighborhoods. Similarly, some African Americans living in segregated neighborhoods may be able to obtain the relevant cultural habits and marketable skills by traveling to distant integrated workplaces or schools, but cultural and human capital would still be more widely accessible to black Americans if they lived in integrated neighborhoods and nearer to integrated educational and business settings. Furthermore, we cannot eliminate African Americans' unjust inequalities by reproducing the cultural and human capital advantages of privileged white communities in black neighborhoods any time soon. For it is impossible to intentionally and to rapidly alter the culture habits of entire

²³³ Shelby, "Integration, Inequality, and Imperatives of Justice," 277–78.

²³⁴ Cf. "It may be *easier* to cultivate these and other relevant cultural habits by simply growing up with and living around people who already have them and thus absorbing these habits without making a conscious effort." Shelby, 277–78.

communities or to transfer many kinds of marketable skills to numerous people without extensive training and time. In addition, even though companies and professionals (and residents) have a responsibility to construct cultural norms that meet minority groups part way, “considerations of inertia or cost call for more change on the part of [segregated African Americans] in the direction of assimilation [to prevailing norms]” in order for them to undo substantial inequalities in cultural capital.²³⁵ Moreover, “it is impossible and undesirable to abolish informal routes to human[,] [cultural] and social capital development” or the ways that relationships with parents, relatives, neighbors, friends, and colleagues pass on marketable skills, cultural norms, and otherwise promote a person’s socioeconomic prospects outside of formal educational and business contexts.²³⁶ The above options seem to be the only ways of alleviating black Americans’ deficits in cultural and human capital other than integration. Since these alternatives are inadequate or impermissible and residential and social integration would remove more of black Americans’ unjust disadvantages in cultural and human capital, residential and social integration are necessary to correct these racial injustices.

The second part of the social capital argument maintains that social and residential integration is necessary to adequately remedy African Americans’ access to (a) information about employment opportunities and (b) referrals for jobs and promotions *given justifiable practices of meritocratic selection*. While it may be possible for institutions to not use knowledge of individuals gained by social relationships in granting opportunities, Anderson argues that “businesses cannot afford to [and are permitted to not] completely cast aside personal knowledge of individuals and

²³⁵ Anderson, *The Imperative of Integration*, 115.

²³⁶ Anderson, 188.

relations of trust built from face-to-face relationships when it comes to filling more advanced positions. Not all information genuinely relevant to merit-based selection can be encapsulated in a resume.”²³⁷ Since relationships with white Americans are needed for black Americans to acquire the chance to attain these recommendations, correcting African Americans’ unjust disadvantages on this front requires social integration. In addition, residential integration is also necessary because it would increase black-white social interaction and more effectively correct the opportunities black Americans would have to form relationships that would lead to these referrals than integration in the workplace and schools would alone. It is more likely that information about job opportunities might be circulated in publicly accessible venues apart from social relationships. Yet, even here, it seems that African Americans would have a better chance of learning about desirable employment prospects if they were in more relationships with advantaged white Americans who could inform them about suitable openings that they might not have noticed. Hence, social and residential integration is required to sufficiently correct black Americans’ unjust inequalities in obtaining information about job opportunities as well. For the most part, I find Anderson’s social capital argument as reconstructed convincing, but we still need to consider Shelby’s primary critique of it in a later section.

The second argument that Anderson supplies is the *anti-stigmatization argument* that the reduction of “stigmatizing ideas [that] operate unconsciously even among those who do not

²³⁷ Hiring processes that use job recommendations based on personal acquaintance with candidates (or with their parents or friends) have been abused in violation of any plausible meritocratic justification. Anderson only supports the practice insofar as it can be justified by standards of “merit-based selection.” Nevertheless, given the possibility of abuse, it may be necessary to institutionalize certain safeguards that make people more accountable for their hiring decisions in order to vindicate using knowledge gained from social relationships.

Anderson, “Dark Ghettos,” 283.

endorse them,” which unjustly insult African Americans and harm their opportunities, “can take place only in [socially] integrated settings.”²³⁸ For the sake of argument, I will grant Anderson’s psychological claim that social integration is necessary to counteract unconscious racial stigmatization and the corresponding violations of the anti-stigmatization and fair opportunity principles. The problem for which the anti-stigmatization argument says integration is the solution is very widespread because it encompasses all the unconscious anti-black stigmatizing ideas that reside in white Americans (and other racial groups). In order to mitigate such unconscious representations, every or most white Americans would have to belong to an in-group with African Americans and to have frequent and positive interactions with them. While more integrated schools and workplaces in which white and black Americans form in-groups would mitigate unconscious stigmatization to a degree, the opportunities for and likelihood of the formation of these groups and of deeper relationships such as friendship would be much greater if residential neighborhoods were also integrated. Therefore, the anti-stigmatization argument can be extended to not only require social integration in educational and employment contexts but residential integration as well. If we grant Anderson’s psychological views, this argument also seems correct to me.

3.4 Integration, Public Policy and Requirements of Justice

The social capital and anti-stigmatization arguments show that spatial and social integration in residential neighborhoods, schools, and workplaces, etc. is necessary to sufficiently mitigate some of the unjust disadvantages that segregation has caused and causes. What does this imply about integration as a requirement of justice? The simple version of Anderson’s argument

²³⁸ Anderson, *The Imperative of Integration*, 186.

seems to suggest that once we know that “the problem [of racial segregation] is an injustice” and “racial integration is [a necessary part of] the remedy,” then we can conclude that “the remedy [and racial integration] is an imperative of justice.”²³⁹ Yet, Anderson recognizes that this argument is incomplete and that “we still need a fuller account of ... the policies that could realize [integration].”²⁴⁰ In addition, Anderson argues that these policies must be morally permissible and respect everyone’s right to “freedom of ... association” and that they must not involve costs for individuals that are “unreasonable.”²⁴¹ If there are no morally permissible courses of action or policies with reasonable burdens that existing agents can implement and that can bring about residential and social integration, then integration cannot be a requirement of justice. The fact that integration is required for corrective justice does not mean that any of these necessary conditions for an imperative of integration are satisfied.

For this reason, Anderson discusses social scientific studies of various public policies that promote integration. For each of these policies, a substantial number of (a) African Americans and (b) white Americans and (c) the state must perform their separate actions that are jointly necessary and sufficient for spatial and social integration to occur and to mitigate certain racial injustices.²⁴² For example, in the Gautreaux program (c) the state gave “7,100 poor black families ... housing vouchers to move to racially integrated neighborhoods in Chicago and its suburbs.”²⁴³ According

²³⁹ Anderson, 112.

²⁴⁰ Anderson, 112.

²⁴¹ Anderson, 19, 190.

²⁴² This structure is part of my analysis and not something that Anderson highlights.

²⁴³ Anderson, *The Imperative of Integration*, 118.

to Anderson, studies show that the program was successful because (a) African Americans were motivated to take advantage of the opportunities in their new neighborhoods and over time (b) white Americans did not deny black Americans' socioeconomic advancement out of discrimination or close their social networks to them. As a result, these integrated African Americans significantly gained in social, cultural, and human capital.²⁴⁴

In addition, Anderson concedes that integration involves burdens for black Americans including “experiences of increased racial conflict, discrimination, and alienation.”²⁴⁵ She also agrees with Shelby that African Americans can have “morally acceptable reasons ... to prefer a neighborhood in which their racial group predominates” such as “attenuation of social connections with friends and family still residing in the ghetto, lower access to businesses that cater to black tastes, ... discomfort from living in a neighborhood dominated by alien cultural norms and political preferences[,] ... prefer[ing] to resist injustice by building racial solidarity in black neighborhoods ... [and] the benefits of [integration] [being] uncertain.”²⁴⁶ In order for the “psychic costs [of integration], especially for the stigmatized,” to be reasonable, “integrationist ideals and policies” must include “places of refuge, social settings in which [stigmatized groups] can count on unquestioned acceptance and affirmation, share their experiences with integration among themselves, and generate strategies for coping with the stresses of integration.”²⁴⁷ For the above reasons, Anderson says that “my integrationist theory ... does not prescribe normative standards

²⁴⁴ Anderson, 118.

²⁴⁵ Anderson, 181.

²⁴⁶ Anderson, “Dark Ghettos,” 281–82; Shelby, *Dark Ghettos*, chap. 2.

²⁴⁷ Anderson, *The Imperative of Integration*, 183.

that are impossible or unreasonably difficult for people to meet, nor standards that fail to serve their objectives.”²⁴⁸

For the sake of argument, let us accept that integration is required to remedy some racial injustices and that the public policies for realizing integration that Anderson identifies are possible, effective, morally permissible and not too costly if certain African Americans, white Americans, and the state act in particular ways. Would Anderson then be able to defend the conclusion that any of these agents are subject to an imperative of integration? To answer this question, we need to distinguish several ways in which Anderson might hold that these agents are under a duty to support integration. (1) Anderson’s claim might be that these agents have a duty to act as they would in a successful scenario in which a sufficient number of them are doing their part in the integrative program such that substantial residential and social integration occurs. For example, (a) black Americans should use housing vouchers to move to integrated neighborhoods, (b) white Americans should form relationships with black Americans who join their neighborhood using those vouchers, and (c) the state should provide these housing vouchers to segregated African Americans. (2) Her view may be that some of these agents have a duty to promote integration (through her policies) *and* to not act in ways that would conflict with or hinder integration. (3) She may mean that some of these agents have a duty to promote integration (through her policies) *in some of their actions*, which is compatible with impeding integration in other ways.

To simply matters, I will only consider the duties these agents have in relation to mitigating the unjust disadvantages of segregated African Americans. Hence, I will not address, for example, possible conflicts between promoting racial integration and ameliorating global poverty or climate

²⁴⁸ Anderson, 190.

change. Furthermore, I will assume that the duty that Anderson has in mind is more substantial than increasing the likelihood of integration by not being racially prejudiced or stigmatizing because this is an obvious way in which everyone can foster integration.

The most fundamental difficulty with (1) the first view of a duty to support integration has to do with the fact that in order for residential and social integration to occur and to remedy unjust racial disadvantages multiple agents have to do their part.²⁴⁹ There is no single agent that is able to do what African Americans, white Americans, and the state must in order for integration to work, and so there is no requirement of justice applying to any agent to realize residential and social integration by itself. At the most, there are separate obligations that belong to the distinct participants in a plan to bring about integration. However, the existence of these duties for some agents is dependent on the actions of others. For example, if either (a) black Americans will not use state-provided housing vouchers to move to white neighborhoods, (b) white Americans will not accept African Americans that use those vouchers into their social networks, or (c) the state will not supply such housing vouchers, then participating in such a program will become infeasible or ineffective as a means of reducing black disadvantage for the other agents. Similarly, if the state does not provide funding for integration or the residents of certain white neighborhoods are expected to be intensely hostile or violent, then integration may prove unreasonably burdensome (according to Anderson and Shelby's standards of reasonableness) for some black Americans.²⁵⁰

²⁴⁹ As I argued in Ch. 1, §§6, 9, the need for multiple agents to do their part is not a feature that is unique to Anderson's integration promoting policies or ideal theory. Especially in social and political philosophy, numerous agents are essential to realize many moral objectives, such as providing adequate education or fair opportunities for all citizens. What my present argument demonstrates is how the more general significance of multiple agents applies to Anderson's case for an imperative of integration.

²⁵⁰ Similar to my reasoning in Ch. 2, §3, my current argument does not imply that we may not have to accept very great costs in order to fulfill our duties of justice. I only use white hostility and violence against black Americans as an example that Anderson and Shelby would consider to involve unreasonable costs. My argument depends on a more general point, namely, that the fact that a program supporting integration is not too costly if a sufficient number of

If supporting integration is infeasible, ineffective, too costly, or impermissible for any of these agents, then it is not a duty of justice for them. Therefore, the fact that there are certain policies for bringing about residential and social integration that would be effective, feasible, permissible, and not too burdensome if and only if *multiple agents each do their separate parts* does not imply that *any specific agent has a duty of justice to support integration in current circumstances*. In order to justify an imperative to promote integration for any specific agent, we need to take into account how other agents will or are likely to act in the present and foreseeable circumstances. It is not possible directly to establish integration as a requirement of justice from identifying certain permissible and not too costly multi-agent programs that are able to realize integration and correct racial injustice.

These points are significant because many white Americans are not willing to do their part in integration promoting programs and actively oppose their implementation by the state. As Anderson says,

Truly large-scale state-centered attempts to racially integrate K-12 schools, as took place in the busing era, consistently encounter massive white resistance and are *not politically feasible* ... [T]he overall picture is gloomy. Spontaneous residential racial integration of black[] [Americans] proceeds at a glacial pace. Voter initiatives and state legislatures are rolling back affirmative action by public universities, while the Supreme Court is restricting voluntary integration by K-12 schools. Federal enforcement of key civil rights initiatives—*Brown v. Board of Education* and its successor cases, the 1964 Civil Rights Act, and the Fair Housing Act—is little more than perfunctory. Opinion research suggests that this state of affairs is just how white[] [Americans] want it—except they think they are not getting it since they believe government is doing *too much* to help black[] [Americans].²⁵¹

black Americans, white Americans, and the state all perform their respective parts, does not mean that that the burdens for a specific agent in current circumstances will still be reasonable if she acts as she would in the more ideal case. Anderson, *The Imperative of Integration*, 181; Shelby, *Dark Ghettos*, 74, 76.

²⁵¹ Anderson, *The Imperative of Integration*, 189.

Thus, insofar as the success or implementation of integration promoting policies depends on recalcitrant white Americans, black Americans will not have a duty to do their part (e.g. by using housing vouchers to integrate into majority-white neighborhoods) because they cannot or doing so will not (or is too unlikely) to alleviate racial injustice. Moreover, individual residents of segregated white neighborhoods may also not have a duty to create relationships with (many of) these African Americans because the state-sponsored program that would bring the latter into their neighborhood will not exist. Even if a white resident wanted the program to be realized, she may not have a duty to bring it about because it may be beyond her capacities as an individual to persuade a sufficient number of white Americans to end their opposition to it. Therefore, even though black and white Americans may have certain duties in a project for residential and social integration were it to be realized, this does not mean that they are subject to these requirements now.

The corrective necessity of integration and Anderson's public policies cannot establish an imperative of integration for any agent because they do not provide enough information about a host of factors that are necessary to justify duties of justice. As we've seen, these include facts about whether certain courses of action are (a) feasible, (b) morally permissible, and (c) not too costly for specific agents in current circumstances. Although Anderson's integration fostering programs may be possible, permissible, and not overly burdensome for everyone involved *if* numerous distinct agents behave in certain ways, that does not imply that the same actions meet the above three criteria in the present situation where some act differently. In addition, requirements of justice are determined by (d) the likelihood that certain actions will advance justice and (e) the risks that they will intensify injustice. This is because, all things equal, we have more

(or less) reason to take a course of action to the extent that its outcomes are more (or less) just and the greater the likelihood of those outcomes. Hence, as I argued in chapter 1, we have a duty to take the available course of action that has the highest probability of promoting justice in the circumstances or that has the greatest expected justice, if it is permissible and not too burdensome.²⁵² Just as the unjust motivations and conduct of other agents can affect the feasibility, permissibility, and burdens of taking certain actions, they can also influence the chances that those actions will have consequences that alleviate injustice. It follows that we must take into account how other agents' wrongful conduct and dispositions affect each of these factors when ascertaining a particular agent's obligations of justice.

Justifying integration as a requirement of justice for a specific agent, therefore, means showing that it is the feasible and permissible course of action with reasonable costs that has more expected justice than all others. However, neither the necessity of integration for correcting racial injustice nor Anderson's policies mean that promoting integration (through fostering her programs) has the greatest expected justice for any agent. That integration is necessary to correct some racial injustices only implies that we have certain defeasible reasons of justice that cannot be fulfilled in any other way. It does not mean that anyone has a conclusive duty to promote integration. These defeasible reasons can be defeated for an agent if supporting integration is infeasible, impermissible, too costly, or has less expected justice than available alternatives. Likewise, even if Anderson's public policies are necessary to and could remove certain unjust disadvantages if implemented, promoting them may not be a duty for a particular agent because these policies may be less likely to advance justice than benefiting black neighborhoods (and

²⁵² Ch. 1, §9.

potentially encouraging self-segregation) due to current and foreseeable levels of resistance from the state, local governments, or advantaged white Americans. Therefore, Anderson's argument does not demonstrate that any moral agent has (2) a duty to support residential and social integration (through her policies) *and* to not hinder them, or even (3) a duty to promote integration (through her policies) at least in some ways.

Of course, in spite of the deficiencies of Anderson's case, black Americans, white Americans, the state, and many other moral agents may have a duty to promote integration. For example, real estate agents, homeowners, and housing authorities certainly have a duty not to deny African Americans' access to white neighborhoods out of racial prejudice or stigma, which makes these neighborhoods more susceptible to integration. However, for multi-agent public policies and cases in which different ways of ameliorating racial injustice conflict, matters can be much more complicated. In these instances, we have to ascertain, for example, whether supporting integration, renewing black neighborhoods or encouraging self-segregation to foster black political solidarity²⁵³ has a better chance of securing more justice. My main critical point is that Anderson's framework is not adequate for justifying any of these duties or how far they apply. Given the complexities of the factors involved in determining which action, all things equal, has the greatest expected justice, I will not be able to examine individual cases or to ascertain how general a requirement of integration or black self-segregation is. Nevertheless, this chapter puts us in a better position to discern what our duties are in respect to existing racial injustices because it more adequately shows us how to establish an imperative of justice and what mistakes to avoid.

²⁵³ Shelby, *Dark Ghettos*, 61; Tommie Shelby, *We Who Are Dark: The Philosophical Foundations of Black Solidarity* (Cambridge, Mass.: The Belknap Press of Harvard Univ. Press, 2005).

3.5 Integration or Egalitarian Pluralism?

Tommie Shelby sets out to show that residential integration is neither “a requirement of corrective justice” nor “*a necessary instrument of corrective justice*” or “the only viable remedy for the [unjust] disadvantages from which the ghetto poor suffer.”²⁵⁴ That is, he disagrees with both of Anderson’s core claims that racial integration is an imperative of justice and that it is necessary to rectify racial injustices. Instead, he argues that “black[] [Americans], including poor black[] [Americans], should be free to self-segregate and that this practice is not incompatible with justice” and contends that “integration [must] be voluntary ... those who wish to bear the costs of integration should be enabled to integrate, but those who don’t want to should neither be pushed into residential integration nor condemned for not integrating.”²⁵⁵

Shelby’s main arguments are based on his contention that correcting racial injustice can be achieved through an alternative that falls short of requiring integration. According to this “*egalitarian pluralist* vision, racial justice requires desegregation, social equality [i.e. freedom of association] and economic fairness. It does not require residential integration. Nor does it oppose it. It does not proscribe voluntary self-segregation in neighborhoods. Nor does it call for it ... [The right response to] [u]njust race-based residential exclusion ... [is] to prevent and rectify discriminatory treatment, to establish fair equality of opportunity, and to ensure equitable distribution of income and economic assets.”²⁵⁶ In other words, as opposed to requiring racial integration, “we should work to improve the residential environment of the unjustly disadvantaged,

²⁵⁴ Shelby, *Dark Ghettos*, 49, 63.

²⁵⁵ Shelby, 67, 75.

²⁵⁶ Shelby, 67–68.

that is, to make their *neighborhoods* less disadvantaged, but without aiming to rearrange neighborhood demographics by race.”²⁵⁷

In support of his position, Shelby asks us to consider the possibility that “the egalitarian pluralist vision has been realized” such that “white[] [Americans] [have] demonstrated their willingness to integrate on fair terms,” “didn’t practice employment and housing discrimination, adequate schools were available to everyone, and an equitable distribution of material resources existed.”²⁵⁸ In these circumstances, “opportunities for interracial contact would exist in workplaces, the marketplace, and educational contexts,” “the broader public sphere, recreational contexts,” and “social media.”²⁵⁹ “Why, under these more just circumstances, would it be so important that white[] and black[] [Americans] live together in the same neighborhoods?”²⁶⁰

The most obvious problem with Shelby’s proposal is that it seems like his egalitarian pluralist vision presupposes residential and social integration rather than being an alternative to it. For example, egalitarian pluralism involves no “discriminatory treatment” and “fair equality of opportunity,” but Anderson’s anti-stigmatization and social capital arguments contend that eliminating unconscious racial stigmatization and discrimination, the unfairness in opportunity

²⁵⁷ Shelby, 68.

²⁵⁸ Unfortunately, Shelby does not tell us how his egalitarian pluralist ideal is to be achieved. Hence, Anderson replies: “Shelby’s argument exposes an important limit of standard nonconsequentialist moral reasoning: its inattention to questions of causation and feasibility. Even rich states have no idea how to effectively develop areas that private enterprise has abandoned. The record of failed state-sponsored economic development projects in such areas is legion. Even if the state were to figure out how to do this, successful economic development would take decades. Must ghetto residents wait that long to get access to better opportunities, because public housing agents decline to create opportunities to move to better integrated neighborhoods, as Shelby prefers, in rejecting programs like Gautreaux and MTO?” Shelby, 71–72; Anderson, “Dark Ghettos,” 283.

²⁵⁹ Shelby, *Dark Ghettos*, 71.

²⁶⁰ Shelby, 71.

that they cause, and a fair distribution of social capital is not possible without residential and social integration.²⁶¹ Even though Shelby says that interracial contact would exist in places besides residential neighborhoods, I have argued that racial stigmatization and unjust disadvantages in social capital would be mitigated to a greater degree if residential integration were realized too and that thereby it is necessary to adequately remove racial injustice.

Moreover, when Shelby explicitly considers Anderson's anti-stigmatization argument, he seems to accept (or at least does not dispute) her claim that residential integration is necessary to reduce white Americans' unconscious racial stigmatization more effectively.²⁶² In fact, when Shelby asks whether it would be "contrary to [African Americans'] duty of justice if they were to refuse to play this role in the moral reform of [white Americans]," he does not say "no" but that "[t]he answer depends ... on the conditions under which they would be expected to play it."²⁶³ If integration does not entail burdens that are "unreasonable," "the costs and risks [are not] too great," and white Americans are willing to lose "some of their existing [unjust] advantages," then black Americans should, "in the spirit of reciprocity, seek out opportunities for greater interracial interaction."²⁶⁴ This strongly suggests that Shelby thinks that segregated white Americans need to interact with black Americans in order to reduce unconscious racial stigmatization. However, unconscious stigmatization causes racial discrimination and unfairness in opportunity, which

²⁶¹ Shelby, 68.

²⁶² Shelby, 73–74.

²⁶³ Shelby, 73.

²⁶⁴ The original quote says that African Americans "*would*, in the spirit of reciprocity, seek out ..." However, given that initial question is about whether black Americans have a certain duty, replacing "would" with "should" seems correct. In addition, for Shelby "reciprocity" is linked to "justice" and "the legitimate claims and responsibilities individuals have within a fair overall social arrangement." Shelby, 74, 20 emphasis modified.

Shelby says would be absent in an egalitarian pluralist society. Since the only way to sufficiently remove racial stigmatization and discrimination and unfair opportunities is through residential integration, egalitarian pluralism requires residential integration and it cannot show that integration is not necessary to correct racial injustice.

Although Shelby does not criticize Anderson's anti-stigmatization case, he does have a reply to the social capital argument. He acknowledges that "Anderson might nonetheless maintain that despite these other opportunities for interracial interaction [in the workplace, the marketplace, schools, etc.], social capital deficits would remain if black[] [Americans] self-segregate in neighborhoods and thus racial injustices would be left uncorrected. But would they? Let's suppose that after ... white[] [Americans] demonstrate[] their willingness to integrate on fair terms, material inequalities remain because some black[] [Americans] forgo the social capital advantages that greater integration would afford them. Would this mean that racial justice wasn't realized? No. Black[] [Americans] would have the real option of joining racially diverse communities, and consequently, wouldn't have a justified complaint."²⁶⁵

This argument suffers from several mistakes. The central issue is whether we can, apart from integration, correct African Americans' unjust social capital disadvantages. Shelby seems to argue that we can in one of two ways. First, Shelby might infer that if black Americans do not have a justified complaint against anyone and no one has any duties to further rectify disadvantages in social capital, then there are no more unjust social capital deficits left and that racial justice is realized. But this would involve a *non sequitur*. Even if white Americans satisfy all their duties to remove unjust disadvantages and black Americans are permitted to not further alleviate them, this

²⁶⁵ Shelby, 72.

does not imply that the resulting distribution is just. African Americans would still be much worse off in terms of social capital than they would be if white Americans had not closed their social networks and neighborhoods to them because of racial prejudice and stigmatization. So the lack of duties to increase black Americans' social capital does not show that there are no more unjust social capital disadvantages for them. Second, Shelby may be arguing that if black Americans have a chance fairly to integrate into white communities that this by itself removes all unjust disadvantages in social capital. But this too would be false. The mere opportunity to move to an integrated neighborhood would not take away all the unjust difficulties African Americans experience in acquiring information about jobs, job referrals, cultural capital, and human capital because of past discrimination and that could be alleviated through actually integrating. It would only mean that they possess a chance of remedying these distributive injustices, not that they are gone. Either way, then, Shelby's criticisms of Anderson's social capital argument are unsuccessful, and the corrective necessity of integration remains intact.

Moreover, it is worth pointing out that since unjust disadvantages in social capital would remain without residential integration, Shelby is not entitled to assume that African Americans are permitted to "forgo the social capital advantages that integration would afford them." It may be true that individual black Americans are permitted to turn down benefits that would only affect them personally. However, the positive effects of individual black Americans choosing to integrate may extend beyond themselves to other black Americans by increasing the social capital in African American communities overall and by reducing racial stigma and thereby preventing unfairness in opportunity. Even though we have a right to turn down personal benefits, we do not have the authority to unilaterally cancel the reasons we have to mitigate injustices that harm others. Since unjust social capital disadvantages and unconscious racial stigmatization are likely to persist apart

from residential integration, everyone, including African Americans, has defeasible reasons of justice to support residential integration. Black Americans, therefore, have reasons and may have duties to other black Americans to integrate and to alleviate their unjust disadvantages, even if not to themselves. Shelby's critique in effect treats segregated African Americans as if they were only a single individual, whereas they are a set of distinct individuals with moral claims on each other and everyone else. Hence, his objection to the social capital argument does not show that black Americans do not have a duty to integrate. Of course, this does not imply that African Americans do have a duty. They may have even stronger reasons of justice to self-segregate. Nevertheless, it is not true that black Americans couldn't have "a justified complaint" against other black Americans for not taking advantage of opportunities to integrate.

Finally, let us suppose, contrary to what seems to be the case, that residential and social integration are not needed to correct or to prevent racial injustice and that egalitarian pluralism (or some other alternative) is sufficient. In addition, suppose that implementing integration and egalitarian pluralism is possible, effective, permissible, and not too costly if significant numbers of black and white Americans, the state, and other moral agents each perform certain actions. Would this mean that no one or that segregated African Americans are not under a requirement to participate in residential or social integration? According to Shelby, "[i]f unjust racial inequality can be ended without racial integration, then integration is not an 'imperative' of justice in any meaningful sense."²⁶⁶ This is incorrect. As I argued in the previous section, whether a specific agent has a duty to support integration, egalitarian pluralism, or some other outcome, partially depends on these actions' relative expected justice. However, promoting integration may have the

²⁶⁶ Shelby, "Integration, Inequality, and Imperatives of Justice," 261.

greatest expected justice even though it is not necessary to correct injustice. It may be that all the other options are much less likely to succeed in current circumstances. Therefore, even if integration is not a corrective necessity and egalitarian pluralism is sufficient, certain moral agents and black Americans may have a duty to foster the integration of white neighborhoods because that offers the best chance of mitigating injustice.

As with racial integration, others' wrongful dispositions and conduct matter for how likely benefiting segregated neighborhoods will ameliorate injustice relative to other courses of action in contemporary circumstances. "There is no doubt," Shelby says, "a sense in which thriving black communities might be a utopian fantasy: advantaged white[] [Americans] won't let it happen because it will cost them more than they want to pay and the forces of opposition aren't strong enough to overturn this reactionary preference."²⁶⁷ However, neither Anderson nor Shelby sufficiently appreciate the importance of these facts or adequately incorporate them into their arguments for and against integration. Rather, in justifying policies promoting integration or egalitarian pluralism as requirements of justice, they seem to think that we can ignore or idealize certain facts about the unjust motivations and actions of some existing agents. For the reasons I have given, this constitutes a serious flaw in their views about moral justification in nonideal theory. In the following and last section, I will examine why they deny that limitations or constraints caused by injustice do not affect what our requirements of justice are.

3.6 Unjust Constraints and Compromising with Injustice

Anderson and Shelby maintain that the ways in which moral agents motives and actions are unjust cannot undermine the cases they make for racial integration and egalitarian pluralism,

²⁶⁷ Shelby, *Dark Ghettos*, 74.

even if they can affect the means by which their ideals should be realized.²⁶⁸ Anderson's argument is that we should reject the idea that "a sound political philosophy must be realistic in ... that it must accommodate people's *unwillingness* to meet certain standards of justice ... [P]eople's refusal to do what morality requires does not generate a valid claim on their part to be let off the moral hook."²⁶⁹ It is true that a person's refusing to fulfill her obligations does not cancel those duties. However, this does not mean that *other* moral agents' wrongful dispositions and actions cannot affect an agent's duties, which is the position that I have relied upon in my arguments. As I have shown, other agents' resistance to integration can make it infeasible, impermissible, too demanding, and less conducive to greater justice than courses of action that encourage continued segregation. For these reasons, justifying imperatives of justice is not immune to facts about people's unwillingness to meeting their obligations.

For Shelby, the problem with our requirements of justice being affected by unjust motives and conduct is that it entails "capitulating to injustice."²⁷⁰ For example, Shelby denies that integration can be an imperative of justice for African Americans if it is the only available route to benefit black Americans because white Americans unjustly refuse to improve segregated black neighborhoods directly. In this case, "the only grounds [he] can see for insisting on ... racial integration ... is political feasibility—which is *not* a requirement of justice but rather a

²⁶⁸ Anderson draws a distinction between the role of people's motivations in justifying imperatives of justice and in selecting how to meet those requirements. Unjust motivations do not make a difference to "lay[ing] out an objective required by justice," but "political philosophy should [not] ignore what people are willing to do ... [when] implement[ing] policies capable of achieving that objective ... Court-ordered busing of schoolchildren, if it causes white flight, may fail to integrate schools. Integrative policies may need to adjust their scale and timing, and be joined with incentives and public education, to win public acceptance." Anderson, *The Imperative of Integration*, 190.

²⁶⁹ Anderson, 190.

²⁷⁰ In this quote, Shelby is interpreting Anderson's position. However, the concern about "capitulating to injustice" is not an accurate portrayal of Anderson's argument and better captures Shelby's views. Shelby, *Dark Ghettos*, 74.

compromise with injustice.”²⁷¹ What Shelby means in this passage is not entirely clear, but he seems to think that requirements of justice are in some way incompatible with compromises with or capitulating to injustice. His view seems to be that a moral agent cannot have a duty of justice to do certain actions, if better alternatives would be available if others would act justly. He seems to think that taking those actions would constitute an unjustified failure not to resist injustice or be a wrongful surrender to injustice.

Even if there is some price to be paid in not more actively resisting the terms of wrongdoers (e.g. by expressing one’s dissent and not accepting any benefits on less than fully just terms), it is not plausible that this loss always outweighs the potentially profound benefits of taking less than ideal remedies to injustice. If successful, the benefits of integration include substantially curtailing unjust disadvantages in social, cultural, and human capital, in employment and educational opportunities and in the life chances of black Americans for many future generations. We are not always permitted to turn down such significant advances in justice simply because others should do better and allow us to get even more. At the most, the disvalue of tolerating unjust constraints on one’s choices is one relevant factor in determining which course of action has the greatest expected justice. Of course, we may refuse to accept certain benefits in the present in the hopes of gaining more justice later on, but this fits into the general framework that I am proposing, which takes into account future consequences. Therefore, if wrongful intransigence means that improving segregated black communities is politically infeasible for the foreseeable future but integration is possible, then integration might be a requirement of justice for particular agents because it is their only available route to undo certain racial injustices. The converse is also true if injustice means

²⁷¹ Shelby, 77.

that racial integration is infeasible and benefiting African Americans in their segregated neighborhoods is the only possible means of mitigating unjust racial inequalities. It is a false dichotomy, therefore, to say that a course of action is either a requirement of justice or forced upon us by unjustly created limitations of political feasibility, but not both. Constraints on an agent's options that are caused by unjust motives and actions can very well affect what her duties of justice are.

Conclusion

In this dissertation, I have defended several claims that are significant for moral justification in nonideal theory. First, I have contended that all the main arguments for the necessity of ideal theory are mistaken. While I have allowed that ideal theory may be useful and even essential when we lack enough inductive evidence, often it is sufficient, necessary, and most important for nonideal theory to establish duties of justice based on the moral and descriptive facts of unjust circumstances instead.

Second, I have argued that we should adopt a pragmatist moral epistemology that maintains that experiments in living (a) can provide better evidence and deliver better justified moral judgments than *a priori* methods, (b) that the empirical evidence they supply is necessary for justification, and (c) that their evidence can be part of a sufficient justification apart from *a priori* methods, if certain epistemological conditions are satisfied. Although experiments in living of moral views are not always available, feasible, or permissible to implement, it is often important to use and seek out the empirical evidence they provide because of the inadequacy of *a priori* methods.

Third, I have stressed that duties of justice to realize principles, institutions, policies, and actions often depend on certain conditions, which may be absent in current and foreseeable circumstances. Therefore, in order to justify the existence of such duties, we must ascertain whether an agent can bring those conditions about and the likelihood that they will be realized. The next point is related to this one.

Fourth, I have shown that the unjust conduct and motives of other agents is relevant for justifying duties of justice. This is because unjust actions can affect many of the factors that

determine whether moral agents are subject to a requirement of justice including whether a certain course of action is feasible, morally permissible, not overly burdensome, and the probability that it will remedy injustice. For this reason, we saw that the principles that regulate a perfectly just society may not apply in unjust circumstances and that integration promoting policies that would rectify racial injustices if many African Americans, white Americans, and the state did their parts, may be infeasible or too unlikely to advance justice given the widespread white resistance that these policies currently confront. As we've seen, these issues are not merely of academic interest. For, both Anderson and Shelby's arguments for integration and reviving black neighborhoods, respectively, fall significantly short of establishing their conclusions because they do not fully appreciate the importance of unjust conduct and dispositions for justifying obligations of justice. Furthermore, I have demonstrated that an agent's own moral failings are important too because she needs to determine what she should do given that she will or is likely to act unjustly or have wrongful motivations.

Fifth, I have argued that we have a duty to perform the available action with the greatest expected justice, all things equal. This explains why we cannot directly derive a duty to realize a perfectly just society, racial integration, or flourishing black neighborhoods from their great or supreme value in terms of justice. Instead, a moral agent has to compare the relative expected justice of various actions and whether supporting, for example, integration, the revitalization of black communities, or black self-segregation has the best chance of mitigating injustice in contemporary circumstances.

The nonideal methodology that is represented by the above commitments is very different from those approaches, for example, that derive principles for nonideal theory directly from ideal theory, that think empirical and social scientific evidence is unimportant for justifying

(fundamental) principles of justice, or even those that hold that we must promote what is necessary to correct injustice if that is possible through the actions of numerous distinct agents. Each of these alternatives neglect or do not sufficiently recognize the importance of central factors for justifying our duties in an unjust world. In providing a more sound picture of moral justification in nonideal theory, I hope that this dissertation will help us to better determine how we should respond to existing injustices.

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